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 9 NATIONAL RAILROAD PASSENGER
 10 CORPORATION dba AMTRAK and JOE DEELY

7
 8
 9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN EARL CAMPBELL,
 12 Plaintiff,

13 v.

14 NATIONAL RAILROAD PASSENGER
 15 CORPORATION dba AMTRAK, JOE DEELY,
 16 and DOES 1-15, inclusive,

17 Defendants.

18 Case No. C05-05434 MJJ

19
**DECLARATION OF CARA CHING-
 20 SENAHA IN SUPPORT OF
 21 DEFENDANTS' NATIONAL
 22 RAILROAD PASSENGER
 23 CORPORATION'S AND JOE DEELY'S
 24 MOTION FOR SUMMARY
 25 JUDGMENT, OR IN THE
 26 ALTERNATIVE, SUMMARY
 27 ADJUDICATION**

28 [Notice of Motion, Memorandum of Points
 and Authorities, and Declarations in
 Support of Motion concurrently filed]

19 Date: May 8, 2007
 20 Time: 9:30 a.m.
 21 Courtroom: 11
 22 Floor: 19
 23 Judge: The Hon. Martin J. Jenkins

24 Complaint Filed: 12/30/05
 25 FAC Filed: 2/23/06
 26 Trial Date: 7/23/2007

27 [Fed.R.Civ.Proc. 56]

28 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 2 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
18 
19 CARA CHING-SENAHA
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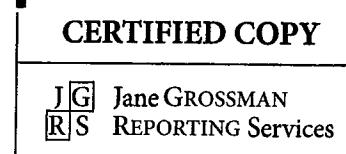
EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 ---oo---

4 JOHN EARL CAMPBELL,)
5 Plaintiff,)
6 vs.)
7 NATIONAL RAILROAD PASSENGER)
8 CORPORATION dba AMTRAK, JOE)
9 DEELY and DOES 1 through 15)
inclusive,)
10 Defendants.)
11 _____

12 No. C05-05434 MJJ



15 DEPOSITION OF JOHN EARL CAMPBELL

16 February 26, 2007

20 Taken by SHARON TRUJILLO

21 CSR No. 6120

24 JANE GROSSMAN REPORTING SERVICES
25 1939 Harrison Street, Suite 460
Oakland, California 94612
510.444.4500

DEPOSITION OF JOHN EARL CAMPBELL

1 A. No. 12:02:55

2 Q. And as a member of that union, you were able

3 to file a grievance if you ever felt that you were being

4 treated unfairly, correct?

5 A. Yes. 12:03:04

6 Q. Did you ever file any grievances while you

7 were at Southern Pacific?

8 A. No.

9 Q. Did you ever feel that you were treated

10 unfairly while you worked at Southern Pacific? 12:03:10

11 A. No.

12 Q. Do you have any understanding, sir, as to why

13 Southern Pacific wanted you to leave your job as a

14 condition of the settlement agreement?

15 A. They wasn't sure my back was 100 percent

16 well. 12:03:30

17 Q. That was your understanding?

18 A. Yes.

19 Q. Did you have any other understanding?

20 A. No. 12:03:46

21 Q. What were your duties at Southern Pacific?

22 A. Track laborer.

23 Q. What does that mean?

24 A. Basically, hard manual labor.

25 Q. And when you say "track," meaning on the

12:04:02

1 tracks?

12:04:04

2 A. Yes.

3 Q. Could you give me maybe a paragraph as to what
4 you would do on a daily basis?

5 A. If something derailed, track laborers would be
6 one of the ones that fixed it. We repaired any damage
7 to the track. Replace ties. Replace rail. Basically,
8 hard, grueling work.

9 Q. Heavy lifting?

10 A. Exactly.

12:04:30

11 Q. Did you use machinery as well?

12 A. Yes.

13 Q. What type of machinery did you use?

14 A. Backhoe. Tamper. End loaders. Dump truck.

15 Tele handlers. Scaffolder. Spike -- spike -- there's
16 numerous. I could -- I can't think of nothing else, but
17 it's numerous machines.

12:04:40

18 Q. Okay. How long did you work at Southern

19 PACIFIC?

20 A. Eight years.

12:05:03

21 Q. While you were there, sir, had you ever been
22 subjected to discipline?

23 A. No.

24 Q. Okay.

25 MS. MAYLIN: What I'd like to do is mark as

12:05:16

1 Q. What position did you apply for? 12:09:06
2 A. Assistant conductor.
3 Q. Okay. And did you eventually interview for
4 the position?
5 A. Yes. 12:09:22
6 Q. Okay. Who did you interview with?
7 A. Denise Sargeant, Tom Oughton, and Dan Johnson.
8 Q. And I understand you were hired?
9 A. Yes.
10 Q. Okay. What was your starting salary, sir? 12:09:43
11 A. Nine thirty an hour.
12 Q. And did you join the union at that time?
13 A. After 90 days, yes.
14 Q. Which union did you join?
15 A. The UTU. 12:09:59
16 Q. And what was your -- I'm sorry -- what were
17 your job duties as an assistant conductor?
18 A. Basically, I help passengers on and off the
19 train, take tickets, make sure of the safe operation of
20 the train I was assigned to. 12:10:21
21 Q. No hard labor I take it?
22 A. NO.
23 Q. And, sir, you mentioned safe operation of the
24 train. Did you have a -- a handbook or a guideline
25 that you had to follow as far as safety regulations? 12:10:41

1 A Yes. 12:10:44

2 Q Okay. How many booklets or handbooks did you
3 have, do you recall?

4 A Five

5 Q Do you recall the names of those books? 12:10:53

6 A I -- ATM (SIC) -- AMT, Amtrak Safety Book
7 Union Pacific Special Instruction, Union Pacific
8 Timetable, BNSF Special Instruction, BNSF Timetable.

9 Q Okay. And it was your job to understand the
10 safety rules in those five books? 12:11:20

11 A Correct.

12 Q Okay. All right. Let's see, here. So when
13 was it that you were initially hired, sir?

14 A September of '98.

15 Q Okay. How long did you remain in the position
16 of assistant conductor? 12:11:36

17 A One year.

18 Q So to September '99?

19 A Yes.

20 Q Who was your supervisor at that time? 12:11:46

21 A Tom Oughton and Mark Schulthies.

22 Q I'm sorry?

23 A Mark Schulthies.

24 Q What were their positions, if you know?

25 A One was road foreman of engines. I don't know 12:12:07

1 at that site?

12:16:30

2 A. The boss of the crew, not of the yard.

3 Q. Got it. Got it. Okay. All right. And did
4 you get that position, Mr. Campbell?

5 A. The first time, no.

12:16:39

6 Q. Did you have an understanding as to why you
7 didn't get that position?

8 A. Someone with more seniority bidded on it.

9 Q. Okay. So you didn't have a problem with that,
10 did you?

12:16:54

11 A. No. Seniority based, no problem.

12 Q. Okay. All right. And when did you
13 continue after that, then, working the extra boards?

14 A. Now I became the assistant yard conductor
15 after that.

12:17:09

16 Q. How did you acquire that job?

17 A. I bidded on it.

18 Q. Okay. Can you give me a month and year?

19 A. Not -- I can't narrow it down to exact -- but
20 it was 1999, thereabouts.

12:17:30

21 Q. Okay. Who was your supervisor then?

22 A. I think it's still Oughton, Schulthies.

23 Q. Okay. What was your shift?

24 A. First part it was the swing shift, which is
25 4 p.m. to 2 a.m.

12:17:53

1 Q. Okay.

12:17:58

2 A. And several months later I got the 10 p.m. to
3 6 a.m. midnight yard.

4 Q. Okay. Did your pay change when you got that
5 position?

12:18:11

6 A. No.

7 Q. Okay. So you were still making nine thirty an
8 hour?

9 A. No. Nine thirty an hour is for class when
10 they're training us. After 90 days it went up to like
11 17 bucks.

12:18:22

12 Q. Oh. Okay. All right. So the same pay,
13 though, for an assistant yard conductor as an assistant
14 conductor?

15 A. An assistant conductor on the road make a
16 little more than a yard conductor. The -- the hourly
17 rate is the same, but we get other things, like being
18 away from home for more than three or four hours. Stuff
19 like that. Little things that makes it more. The yard
20 conductor is just a flat hourly rate.

12:18:35

21 Q. Okay. All right. Okay. So in '99, you're
22 the assistant yard conductor. You have the same
23 supervisors. Did your job change after that time?

24 A. I became a yard conductor maybe a year later
25 2000.

12:18:56

12:19:23

1 Q. Okay. Prior to -- so you put a bid on a yard
2 conductor job? 12:19:31

3 A. Exactly.

4 Q. Okay. Prior to that time in 2000 -- by the --
5 oh, before I ask that, do you recall the month in 2000? 12:19:40

6 A. No. I do not.

7 Q. Okay. Prior to putting a bid on a yard
8 conductor job, though, in 2000, had you bid on any other
9 jobs, or applied for any other jobs, other than what
10 you've testified to? 12:19:55

11 A. I applied for the train engineer's job.

12 Q. Okay. And when did you do that?

13 A. October of '98.

14 Q. How are you sure about the date, sir?

15 A. Because I only been there a month, and my
16 supervisor, Mark Schulthies, saw me moving the
17 locomotive around the yard, and he was just surprised I
18 was -- I just got hired, and he didn't know I knew how
19 to do that, so he gave me an application for a train
20 engineer. 12:20:11

21 Q. And that was in October '98?

22 A. Uh-huh.

23 Q. That's a yes?

24 A. Yes.

25 Q. And, sir, was it within proper Amtrak protocol 12:20:35

1 AFTERNOON SESSION 1:27 P.M. 12:30:56

2

3 EXAMINATION BY MS. MAYLIN (Resumed)

4

5 THE VIDEOGRAPHER: We are back on the record. 01:27:18

6 It is 1:27.

7 MS. MAYLIN: Okay. What I marked here as 01:27:43

8 Exhibit 2 is a -- let's see, one, two -- four-page

9 document. Bates-stamped D10282 through 285.

10 (Whereupon, Defendants' Exhibit No. 01:27:43

11 2 was marked for identification.)

12 MS. MAYLIN: O. There you go, Mr. Campbell.

13 Mr. Campbell, this appears to be your application for

14 employment with Amtrack, is that correct?

15 A. Yes. 01:27:52

16 Q. Okay. And that is your signature at the

17 bottom of the first page?

18 A. Yes.

19 MS. PRICE: Counsel, before we go on, 01:28:01

20 Mr. Campbell has two items of information he needs to

21 clarify.

22 Go ahead.

23 THE WITNESS: My job insurance only lasted a

24 year, not two years. And the second year I cashed in my

25 401K and my savings, so that's -- so that's -- that -- 01:28:16

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 33 Judge: The Hon. Martin J. Jenkins

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 35 FAC Filed: 2/23/06
 36 Trial Date: 7/23/2007

37 [Fed.R.Civ.Proc. 56]

38 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

39 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 40 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
18 
19 CARA CHING-SENAHA
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28

1 one was filed?

01:42:07

2 A. Actually, this is the second one, I think.

3 Q. Are you sure about that?

4 A. Yeah.

5 Q. Hum. Well, let's see here. That was January
6 '04.

01:42:16

7 A. Uh-huh.

8 Q. All right. You think there was one filed
9 before that?

10 A. Yes.

01:42:33

11 (Whereupon, Defendants' Exhibit No.

12 5 was marked for identification.)

13 MS. MAYLIN: Q. Okay. What I'm marking now
14 as Exhibit 5 -- this is going to be a test. Let's
15 see -- is a one-page document, with a little stamp at the
16 top left. There you go, Mr. Campbell. It's
17 Bates-stamped 0000001 (sic). Mr. Campbell, is that your
18 signature at the bottom?

01:42:54

19 A. Yes.

20 Q. Okay. And did you sign that around August 16,
21 2005?

01:43:23

22 A. It is dated that, yes.

23 Q. Okay. Well, do you believe that you signed it
24 the -- on the day that you dated it?

25 A. Yes.

01:43:34

1 Q. All right. And, sir, you signed it also under
2 penalty of perjury, correct? 01:43:34

3 A. Yes.

4 Q. All right. And, sir, is this the second
5 administrative charge that you filed? 01:43:44

6 A. Apparently this is the second.

7 Q. Okay. And it looks like that's August '05, as
8 opposed to 2004. So let me ask you a question here.
9 Does that refresh your recollection that the one we just
10 looked at, Exhibit (sic) 3 and 4, that that was the
11 first one you filed? 01:44:01

12 A. Yes.

13 Q. Okay. And what we're looking at now, Exhibit
14 5, that was the second one that you filed?

15 A. Yes.

16 Q. All right. And, sir, it looks to me like this
17 administrative charge was filed with the Department of
18 Fair Employment and Housing. Is that your recollection
19 as well?

20 A. Yes.

21 Q. Okay. Did you have counsel at the time you
22 filed this?

23 A. '05. Yes.

24 Q. Okay. And was -- is that your current
25 counsel, Price and Associates? 01:44:37

1 MS. PRICE: Same objection. Calls for a legal 01:31:39
2 conclusion, and I'm -- it's also argumentative and
3 misstates the witness's testimony.

4 THE WITNESS: No.

5 MS. MAYLIN: Q. Mr. Campbell, you filed a 01:32:01
6 couple of administrative charges with the EEOC and DFEH.
7 Do you recall that?

8 A. Yes.

9 Q. Let's see what I did with them. Here we go.
10 Okay. How many charges did you file, that you can 01:32:20
11 recall?

12 A. Two.

13 Q. Two?

14 A. Yes.

15 Q. All right. Were they both with the EEOC or 01:32:28
16 with the DFEH, or one each, or do you recall?

17 A. I think they were both with the EEOC.

18 Q. All right. Well, I'll give you the one that I 01:32:49
19 have as being the first one, and I'll see if that's
20 true. What I'm marking as Exhibit 3 is a one-page
21 document, Bates-stamped D09919. Here you go.
22 (Whereupon, Defendants' Exhibit No.
23 Exhibit 3 was marked for identification.)

24 MS. MAYLIN: Q. Mr. Campbell, this appears to
25 me to be a charge of discrimination filed with the EEOC. 01:33:11

1 It looks like it was signed on January 28, 2004 and
2 marked received by the EEOC on February 9, 2004. So
3 is that your signature at the bottom?

01:33:15

4 A. Yes.

5 Q. Okay. Do you recall submitting this form to
6 the EEOC, Mr. Campbell?

01:33:27

7 A. Yes.

8 Q. And, sir, was this the first of the charges
9 that you filed with either the EEOC or DEER?

10 A. Yes.

01:33:38

11 Q. Okay. And, sir, were you represented by
12 counsel at the time that you signed this and submitted
13 it?

14 A. No.

15 Q. Okay. Did anyone help you fill this out?

01:33:49

16 A. No.

17 Q. You did it all on your own?

18 A. Yes.

19 Q. Okay. So the typed part of the document,
20 where there's some fill-in-the-blanks, or there's Xs and
21 some blanks, and then there's some typed-in information,
22 did you type that in yourself?

01:34:00

23 A. No.

24 Q. Who typed that, as far as you know?

25 A. I suppose somebody at the EEOC.

01:34:15

1 you sent in an old resume?

01:52:14

2 "Isn't that true?

3 "Answer: I also sent in an Amtrak
4 application with this resume, so...")

5 MS. PRICE: Thank you.

01:53:09

6 MS. MAYLIN: Q. I guess we're taking a break,
7 Mr. Campbell.

8 THE VIDEOGRAPHER: It is 1:53. We're going
9 off the record.

10 (Recess taken: 1:53 p.m. until 2:02 p.m.)

01:53:18

11 THE VIDEOGRAPHER: We are back on the record.
12 It is 2:02.

13 MS. MAYLIN: Q. Actually, I'm sorry, we've
14 got to go off the record just for a sec.

15 THE VIDEOGRAPHER: We're going off the record.
16 It is 2:03.

02:03:30

17 (Recess taken: 2:03 p.m. until 2:04 p.m.)

18 THE VIDEOGRAPHER: We are back on the record,
19 and it is 2:04.

20 MS. MAYLIN: Q. Okay. Mr. Campbell, you were
21 initially hired, as you said, as an assistant conductor.
22 What I'm marking here as Exhibit 7 is a multiple-page
23 document, DC1276 (sic) and 77. Here you go. This is
24 the letter you received from Amtrak, correct?

02:04:14

25 A. Correct.

02:04:39

1 (Whereupon, Defendants' Exhibit No. 02:04:41
2 7 was marked for identification.)

3 MS. MAYLIN: Q. And that was sent to you by 02:04:49
4 Denise Sargeant, who you testified was the
5 African-American member of the panel who you interviewed
6 with, correct? 02:05:04

7 A. Correct.

8 Q. Okay. And when you started with Amtrak, you
9 got quite a few booklets and documents to look at,
10 didn't you? 02:05:17

11 A. Yes.

12 Q. Okay. And what I'm marking here as Exhibit 8
13 is a "New-Hire Checklist - Agreement..." There you go,
14 Mr. Campbell. D10275.

15 (Whereupon, Defendants' Exhibit No. 02:05:23
16 8 was marked for identification.)

17 MS. MAYLIN: Q. And that's your signature on
18 that page, correct?

19 A. Correct.

20 Q. Okay. And on September 30, 1998, you signed
21 that you received all of the information that are marked
22 as "yes" checks, correct? 02:05:50

23 A. Correct.

24 Q. Okay. And, Sir, you do see that you've
25 checked "yes" that you received the company is Equal

1 Employment Opportunity Policy, do you see that? 02:05:54

2 A. Yes.

3 Q. Okay. And you did receive that, didn't you?

4 A. Yes.

5 Q. Okay. And you also received harassment 02:06:00

6 information as well?

7 A. Yes.

8 Q. Okay. And you understood, didn't you 02:06:15

9 Mr. Camboelli, that Amtrak had a pretty detailed

10 harassment and -- non-harassment, non-discrimination

11 policy and complaint procedure, correct?

12 MS. PRICE: Objection. Vague and ambiguous as

13 to "pretty detailed."

14 THE WITNESS: Correct.

15 MS. MAYLIN: Q. Okay. And indeed, you 02:06:28

16 understood, over the years of your employment at Amtrak,

17 that Amtrak has an EEOC -- I'm sorry, an EEO officer who

18 is responsible for taking any complaints and

19 investigating complaints, correct?

20 MS. PRICE: Objection. Lacks foundation; 02:06:47

21 assumes facts; calls for speculation.

22 THE WITNESS: Correct.

23 MS. MAYLIN: Q. Okay. And you had two times 02:07:02

24 during your employment where you had contact with the

25 EEOC officer, didn't you?

1 Q. And I don't recall if I asked you, who were
2 your supervisors when you were a yard conductor?

02:25:58

3 A. At the time, Mark Schulthies and Tom Oughton.

4 Q. Okay. And how did your duties change as a
5 yard conductor from being an assistant conductor?

02:26:11

6 A. Just the bid process.

7 Q. But what was -- what was the change in your
8 actual day-to-day duties?

9 MS. PRICE: Objection. Lacks Foundation.
10 assumes facts.

02:26:22

11 THE WITNESS: I just went from being number
12 two to number one in charge of -- you know,
13 authority wise.

14 MS. MAYLING: Q. So it didn't change your
15 duties at all?

02:26:33

16 A. It just gave me more responsibilities.

17 Q. What more responsibility did it give you?

18 A. I was in charge of all of the moves in the
19 yard involving the trains, make-up, break-up.
20 Everything was basically on me.

02:26:45

21 Q. Okay. When you say you're in charge of all
22 the moves in the yard, what does that mean?

23 A. The mechanical foreman would give us a switch
24 list, and I would have to perform, you know, and I had
25 like ten hours to do it, so...

02:27:05

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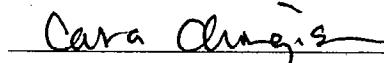
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8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

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19 CARA CHING-SENAHA
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1 several incidents of misconduct during your employment. 02:44:32

2 Can you tell me the first time there was an incident
3 where you were charged with a rules infraction?

4 MS. PRICE: Objection. Lacks foundation;
5 assumes facts. It's also argumentative. Also, object
6 to the preface. 02:44:46

7 Do you need to have the question read back?

8 Do you know what the question is?

9 THE WITNESS: Yeah.

10 MS. MAYLIN: Q. When is the first time you
11 were charged with a rules infraction when you were
12 employed by Amtrak?

13 A. I don't know the date, but it involved the
14 boxcar derailment.

15 MS. PRICE: Okay. She's asking you for the
16 date. 02:45:16

17 THE WITNESS: I don't have the dates.

18 MS. MAYLIN: Q. Okay. Was it in 2000,
19 Mr. Campbell, March 24, 2000; does that sound right?

20 A. Yeah.

21 Q. Okay. And there was a boxcar derailment?

22 A. Yes.

23 Q. Okay. And I understand that the recommended
24 discipline for this misconduct was termination. Is that
25 correct? 02:45:41

1 A. No.

02:45:41

2 MS. PRICE: Objection. Lacks foundation;
3 calls for speculation.

4 MS. MAYLIN: Q. Okay. Well, do you recall,
5 Mr. Campbell, that that was the recommended discipline,
6 but that you acknowledged your misconduct, and you
7 waived your right to an formal investigation, and as a
8 result, you were issued instead a letter of reprimand?

02:45:47

9 MS. PRICE: Objection. Or, I'm sorry. Are
10 you finished with the question?

02:46:02

11 MS. MAYLIN: Yes.

12 MS. PRICE: Okay. Objection. The question is
13 compound; lacks foundation; assumes facts.

14 THE WITNESS: Ask me the first part first.

15 Like she said, you asked me four different questions
16 there.

02:46:15

17 MS. MAYLIN: Q. Okay. Let's try it -- I'll
18 try to ask you fewer than four. I'll try to ask you
19 one.

20 Mr. Campbell, it is true in March 24, 2000 --
21 on March 24, 2000, that that incident resulted in a
22 charge of misconduct, but you admitted the misconduct;
23 is that correct?

02:46:28

24 MS. PRICE: Objection. It's still compound;
25 assumes facts, lacks foundation.

02:46:50

1 Just try to answer -- if you can, answer the
2 question. If you need to have it rephrased, let her
3 know.

02:46:53

4 THIS WITNESS IS NOW GOING TO TRY SAY YES.

5 MS. PRICE: Don't just say yes. You need to
6 make sure your answer is accurate.

02:47:04

7 MS. MAYLIN: Q. Well, if you'd like to see
8 that language written on a piece of paper that you
9 signed, Mr. Campbell, I can certainly provide that.

10 Here's what I've marked as Exhibit 13.

02:47:18

11 A. Okay.

12 Q. There you go. Maybe you'll find that amusing
13 as well.

14 (Whereupon, Defendants' Exhibit No. 14)

13 was marked for identification.)

16 MS. PRICE: Okay. And the language that
17 you're suggesting to him where he says, "I acknowledge
18 my misconduct," is in what paragraph, Counsel?

19 MS. MAYLIN: Q. Is that your signature on the
20 page, sir?

21 A.

02:47:28

22 MS. PRICE: Can you -- you asked (sic) a
23 question pending when you made a statement that thi
24 document reflected him acknowledging his misconduct
25 Can you --

02:47:37

1 MS. MAYLIN: I'm going to take him through it,
2 Counsel, if you'll stop talking. I'd like to ask a
3 question.

4 MS. PRICE: Well, I object. The question you
5 asked earlier lacks foundation. It was misleading. It
6 was argumentative. And I don't know if you're doing
7 that intentionally, but the record will reflect the
8 language that you just represented to the witness would
9 be in this document. I don't see it here. And you're
10 obviously declining to make that representation on the
11 record now that the document has been marked, but that's
12 contrary to what you represented to the witness before
13 you showed him the document.

14 MS. MAYLIN: Q. Mr. Campbell, is this your
15 signature on this page that I just marked as Exhibit 132.

16 A. That is my signature.

17 Q. Okay. And see under "Charges" it states your
18 alleged failure to follow the general code of operating
19 rules, third edition, and it has a lot of numbers there
20 like Safety Rule 5316E, and AMTS Rule 16.2. You
21 understood that that's what you were charged with,
22 correct?

23 A. Correct.

24 Q. And, specifically, under "Specification" it
25 states that there was damage to equipment during the

02:47:38

02:47:44

02:47:58

02:48:11

02:48:27

02:48:45

1 11 p.m. yard assignment of March 24, 2000, damage to the 02:48:45
2 cables occurred when 8804 was cut from 8030 on two
3 tracks, and further damage was done when 8804 was moved
4 to A track, and damages were unreported. Did you
5 understand that those were the specifications of the
6 charges, Mr. Campbell? 02:49:04

7 A. Yes.

8 Q. Okay. And did you agree to accept the
9 following discipline assessed by Amtrak, that a letter
10 of reprimand will be issued to you and placed in your
11 file? 02:49:18

12 A. Yes.

13 Q. Okay. And you signed that you accepted that
14 discipline for those infractions on April 13, 2000,
15 correct? 02:49:31

16 A. Correct.

17 Q. Okay. And you waived your right to a formal
18 investigation that had been scheduled for April 12,
19 2000, correct? 02:49:43

20 A. Correct.

21 Q. Okay. And when you -- you understood that
22 when you waived your right to a formal investigation,
23 and you accept the discipline, that that means that you
24 did not contest the charges or the specifications,
25 correct? 02:49:58

1 MS. PRICE: Objection. Lacks foundation,
2 calls for a legal conclusion.

02:49:59

3 MS. MAYLIN: Q. Correct, Mr. Campbell?

4 A. Correct.

5 MS. PRICE: Same objections.

02:50:06

6 MS. MAYLIN: Q. Did you ever learn,
7 Mr. Campbell, that had you not agreed to the discipline,
8 that that charge, those actually charges, three charges,
9 would be grounds for termination?

10 A. First I'm hearing of it.

02:50:41

11 Q. So the answer is no?

12 A. No.

13 Q. And as far as you know, a formal letter of
14 reprimand was put in your personnel file, correct?

15 A. Correct.

02:51:04

16 Q. Okay. Do you recall having any -- being
17 charged with any rule infraction prior to 2000?

18 A. No, I don't recall.

19 Q. All right. When is the next time you were
20 charged with a rule infraction?

02:51:19

21 A. 2002, maybe.

22 Q. Okay. What occurred then?

23 A. That was the incident with the boxcar being
24 dislodged from the track.

25 Q. Oh, that was the derailment?

02:51:33

1 A. Yes.

02:51:35

2 Q. Okay. So that was where a boxcar actually
3 came off altogether, right?

4 A. One wheel came off. Not the whole bus. Just
5 one wheel.

02:51:45

6 Q. Okay. Is that not serious when just one wheel
7 comes off, as opposed to all four?

8 MS. PRICE: Objection. Vague and ambiguous.

9 THE WITNESS: Depends on who the boss is.

10 MS. MAYLIN: Q. Is that right, Mr. Campbell?
11 So a one-wheel derailment is not considered significant,
12 as far as you know?

02:51:59

13 MS. PRICE: Objection. Lacks foundation;
14 calls for speculation. Also, vague and ambiguous.

15 THE WITNESS: Any derailment is serious.

02:52:16

16 MS. MAYLIN: Q. All right. How many rules
17 infractions were you charged with for that incident?

18 A. I have no idea.

19 Q. Okay. Well, isn't it true, Mr. Campbell, that
20 you were charged with four infractions? And I'll list
21 them and see if that refreshes your recollection.

02:52:33

22 Failing to work safely and to avoid damage to equipment
23 is one. Failing to verify cars were properly secured
24 before coupling or moving. That's two. Failing to
25 control train movement while moving cars onto a spur

02:52:52

1 track. That's three. And moving a train at an unsafe
2 speed. Four. Does that refresh your recollection, sir?

02:52:56

3 A. Yes.

4 Q. Okay. And it's true, isn't it, that Amtrak
5 conducted a formal investigation in March 2002?

02:53:09

6 A. Yes.

7 Q. Okay. And there was a hearing where you
8 testified, correct?

9 A. Correct.

10 Q. Okay. And based largely on your own
11 admissions, you were assessed a 20-day suspension,
12 correct?

02:53:17

13 MS. PRICE: Objection. Lacks foundation;
14 calls for speculation.

15 THE WITNESS: I thought it was ten.

02:53:32

16 MS. MAYLIN: Q. Yeah. And actually what I
17 have here, sir, and maybe this will refresh you
18 recollection, it was a 20-day suspension, but ten days
19 were held in abeyance. Does that sound right?

20 A. Yes.

02:53:42

21 Q. Okay. And you completed your suspension in
22 April 2002?

23 A. Yes.

24 Q. All right. And your union appealed the
25 suspension to the Public Law Board; is that true?

02:53:53

1 I got blamed for it. Simple as that. 02:55:37

2 Q. Okay. Well -- and then you didn't report the
3 damage, right?

4 A. I didn't know it was damaged until somebody
5 came and told me. 02:55:47

6 Q. Okay. Well, how did you know that the crew
7 hadn't done -- the electrical crew hadn't done their job
8 with the flag, though?

9 A. At the end of the shift they told me the car
10 was damaged, after I had pulled it out and re-spotted,
11 getting ready to go home. They said, oh, those cables
12 were pulled out. 02:55:58

13 I said, "What?"

14 They said, "Yeah." They were still hooked up,
15 so that's how I knew. It was like three hours later. 02:56:12

16 Q. Okay. So it was the delay in the three hours
17 of non-reporting?

18 A. Yeah.

19 MS. PRICE: Objection. Vague.

20 MS. MAYLIN: Q. When was it -- when was it
21 reported, as far as you can recall? 02:56:20

22 A. They reported it to their supervisor, and then
23 they -- their supervisor told me, and I wrote up a
24 report.

25 Q. Okay. As part of the yard conductor protocol, 02:56:35

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8 Attorneys for Defendants
 9 NATIONAL RAILROAD PASSENGER
 10 CORPORATION dba AMTRAK and JOE DEELY

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 JOHN EARL CAMPBELL,
 14 Plaintiff,

15 v.
 16 NATIONAL RAILROAD PASSENGER
 17 CORPORATION dba AMTRAK, JOE DEELY,
 18 and DOES 1-15, inclusive,

19 Defendants.

20 Case No. C05-05434 MJJ

21 **DECLARATION OF CARA CHING-
 22 SENAHA IN SUPPORT OF
 23 DEFENDANTS' NATIONAL
 24 RAILROAD PASSENGER
 25 CORPORATION'S AND JOE DEELY'S
 26 MOTION FOR SUMMARY
 27 JUDGMENT, OR IN THE
 28 ALTERNATIVE, SUMMARY
 ADJUDICATION**

29 [Notice of Motion, Memorandum of Points
 30 and Authorities, and Declarations in
 31 Support of Motion concurrently filed]

32 Date: May 8, 2007
 33 Time: 9:30 a.m.
 34 Courtroom: 11
 35 Floor: 19
 36 Judge: The Hon. Martin J. Jenkins

37 Complaint Filed: 12/30/05
 38 FAC Filed: 2/23/06
 39 Trial Date: 7/23/2007

40 [Fed.R.Civ.Proc. 56]

41 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

42 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 43 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenc
2 following statements based on personal knowledge.

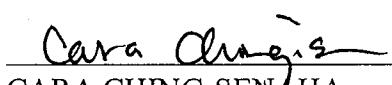
rt. I make the

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
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19 CARA CHING-SENAHA
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1 though, sir, shouldn't you have gone back and checked
2 yourself, regardless of the flag?

02:56:43

3 MS. PRICE: Objection. Vague and ambiguous as
4 to the "yard conductor protocol," something;
5 unintelligible.

02:56:54

6 THE WITNESS: That's true.

7 MS. MAYLIN: Q. Okay. And after that, I bet
8 you double-checked to make sure, right?

9 A. For the record, my A/C did the move. I was
10 standing at the switch so -- but like earlier, I'm in
11 charge, so I get the blame, but I chewed him out.

02:57:08

12 (Whereupon, Defendants' Exhibit No.

13 14 was marked for identification.)

14 MS. MAYLIN: Q. All right. What I've marked
15 now is -- I think we're back to the '02 incident. I've
16 marked as Exhibit 14 -- well, it is -- here we go.

02:57:18

17 March 28, 2002. There you go -- a letter addressed to
18 you, Mr. Campbell, where it details the charges that
19 we've already talked about on the record here. And the
20 bottom line is that a boxcar became derailed. You
21 received this letter, sir?

02:58:00

22 A. Yes.

23 Q. Okay. And the hearing officer of the Western
24 Region, Roger Butler, found you guilty of the charges,
25 correct?

02:58:18

1 A. Correct.

02:58:19

2 Q. Okay. And -- well, let's go on. Sir, was
3 there another time when you were charged with a rules
4 infraction?

5 A. The one that got me terminated.

02:58:54

6 Q. Okay. Well, before we talk about that, sir,
7 we talked a little bit about the Province, Terry
8 Province, situation. Were you counseled about that
9 incident, Mr. Campbell?

10 A. Not counseled. Not charged.

02:59:13

11 Q. Okay. Well, do you know whether or not
12 Mr. Province filed a complaint about that?

13 A. Yes.

14 Q. Okay. And you submitted a response, correct?

15 A. Probably. I don't remember.

02:59:31

16 Q. All right. Do you recall what Mr. Province
17 said you did?

18 A. No.

19 Q. Do you recall that Mr. Province alleged that
20 you threw a lantern at his head?

02:59:41

21 A. Yes, I recall that.

22 Q. Okay. Mr. Campbell, did you throw a lantern
23 at Mr. Province?

24 A. No.

25 Q. Did you toss a lantern in his direction?

02:59:52

1 A. No. 02:59:56

2 Q. Okay. Did your hand come into contact with a
3 lantern at all during the time you and Mr. Province were
4 having this altercation?

5 MS. PRICE: Objection. Lacks foundation;
6 assumes facts. It's also vague and ambiguous as to,
7 quote, alterca- -- "this altercation."

8 THE WITNESS: Three questions.

9 MS. MAYLIN: Q. Sir, did you have any contact
10 with a lantern? 03:00:07

11 A. It was night. I had my lantern in my hand.

12 Q. Okay. Did the lantern leave your hand during
13 the time you and Mr. Province were having this
14 discussion?

15 A. No. 03:00:28

16 Q. All right. Sir, it is true, though, that you
17 screamed at him?

18 MS. PRICE: Objection. Argumentative.

19 THE WITNESS: Yes.

20 MS. MAYLIN: Q. Okay. And it is true -- 03:00:39

21 MS. PRICE: It's also vague and ambiguous.

22 MS. MAYLIN: Q. It is true that you berated
23 him?

24 MS. PRICE: Objection. Lacks foundation;
25 calls for speculation. It's also vague and ambiguous. 03:00:48

1 just make your objections as to form -- you have this
 2 running stream of consciousness going on that is really
 3 improper, and you're the one who's confusing the
 4 interrogation. I asked Mr. Campbell, because it says
 5 right here in his statement, "Did I scream? Yes. Did I
 6 berate him? Probably."

03:09:54

7 Q. My question is: What do you remember saying
 8 during this communication with Mr. Province?

9 A. This was three years ago. I don't know what
 10 I said. All I know is the screaming and yelling.
 11 That's --

03:10:09

12 Q. Okay. So you don't remember what you said,
 13 but just you were screaming and yelling?

14 A. We both were.

15 MS. PRICE: Okay. That's it. We need to
 16 take --

03:10:22

17 MS. MAYLIN: Okay. We'll go ahead and take a
 18 five-minute break.

19 MS. PRICE: Oh, ten minutes, please.

20 THE VIDEOGRAPHER: It is 3:10. We are going
 21 off the record.

03:10:32

22 (Recess taken: 3:10 p.m. until 3:31 p.m.)

23 THE VIDEOGRAPHER: We are back on the record.

24 It is 3:31.

03:10:42

25 MS. MAYLIN: Q. Okay. Mr. Campbell, you

03:31:01

1 recall earlier we looked at that DFEH charge and the
2 EEOC charge, and you've still got it in front of you
3 there. Sir, it is true, isn't it, that you never filed
4 either a DFEH or an EEOC charge against Joe Deely,
5 correct?

03:31:03

6 A. Correct.

03:31:23

7 Q. Okay.

8 MS. PRICE: I'm sorry. I meant to object. It
9 calls for a legal conclusion, and I'm sorry are we --
10 Counsel, sorry. You just misstated the document so --
11 are you referring the witness to Exhibit 5 or --

03:31:31

12 MS. MAYLIN: I wasn't referring him to either
13 one. I just asked a question, Counsel.

14 MS. PRICE: I'm sorry, then I misunderstood.
15 Maybe the witness did, too.

03:31:51

16 Could I have the question read back, please?

17 MS. MAYLIN: You know, Counsel, why on earth
18 are you having every question read back? If you could
19 just listen. He's already answered. I'm going to move
20 on to another question.

03:32:01

21 MS. PRICE: Well, I object. Your question,
22 once again, was misleading. As I -- and I'm having it
23 read back because you refuse to acknowledge the record.

24 MS. MAYLIN: Oh, boy.

25 MS. PRICE: You changed the record, and I

03:32:11

1 MS. MAYLIN: Q. Mr. Campbell, take a look, 03:33:25
2 please, I've just marked a document as Exhibit 17.
3 Sir, is this the fax that you sent to Paul Ho in regard
4 to your November 2003 application for an engineer
5 position? 03:33:44

6 A. Yes.

7 Q. And at the bottom of Bates-stamped D09960 and
8 D09961, at the bottom there, that's your fax
9 transmission line, is it, Mr. Campbell?

10 A. Correct. 03:34:03

11 Q. Okay. And it shows that it was faxed from
12 your phone or your fax machine to Mr. Ho, correct?

13 A. Correct.

14 Q. Okay. And you did indeed then send Mr. Ho an
15 old resume, correct, Mr. Campbell? 03:34:19

16 A. Correct.

17 Q. Okay. Did you ever send Mr. Ho an updated
18 resume for that November 2003 position?

19 A. I don't recall.

20 Q. Well, I understand that you don't recall doing
21 it or not, sir, but do you have any recollection that
22 you did? 03:34:48

23 MS. PRICE: The question is argumentative. I
24 object.

25 THE WITNESS: No. 03:35:00

1 (Whereupon, Defendants' Exhibit No. 04:48:10
2 16 was marked for identification.)

3 MS. MAYLIN: Q. Okay. And what I've marked 03:35:25
4 now as Exhibit 18 is a -- did I do it again? I sure
5 did. I take that back. What I have marked as Exhibit
6 16 is a multiple-page document dated January 27, 2003,
7 three pages long, signed by Rickie Donofrio. There you
8 go, Mr. Campbell. Did you receive this letter from
9 Ms. Donofrio?

10 A. (Reviewing document.) Okay. 03:37:11

11 Q. Did you receive that from Ms. Donofrio?

12 A. I received it.

13 Q. Okay. And did you ever respond to that 03:37:19
14 letter, Mr. Campbell?

15 A. No. 03:37:19

16 (Whereupon, Defendants' Exhibit No. 03:37:26
17 18 was marked for identification.)

18 MS. MAYLIN: Q. Okay. And what I've marked 03:37:26
19 now as Exhibit 18 is a one-page document. There you go.
20 A letter dated February 7, 2003, addressed to you,
21 signed from Ms. -- signed by Ms. Donofrio again. Did
22 you receive this letter, Mr. Campbell?

23 A. Yes.

24 Q. Okay. And did you ever respond to this 03:37:41
25 letter, Mr. Campbell?

1 A. No.

03:37:43

2 Q. Okay. All right. Mr. Campbell, do you have
3 any reason to think that your supervisors, during
4 December 2002, that's the Province altercation time
5 frame -- do you have any reason to think that your
6 supervisors did not know about that altercation?

03:37:56

7 A. No.

8 MS. PRICE: Objection. Vague as to "that
9 altercation"; assumes facts.

10 MS. MAYLIN: Q. Okay. And is there any
11 reason, sir, that -- that you think that your
12 supervisors didn't know about the January 2002 car
13 derailment?

03:38:09

14 A. No.

15 Q. Is there any reason that you think that your
16 supervisors wouldn't know about the 2000 equipment
17 damage and failure to report equipment damage?

03:38:33

18 A. No.

19 Q. Okay. All right. When is the next time you
20 were charged with a rules infraction?

03:38:50

21 A. I think the July 2004 incident.

22 Q. Okay. What incident was that?

23 A. I was accused of cutting the brakes out of a
24 locomotive.

25 Q. What does that mean, "cutting the brakes out"?

03:39:08

1 KATHLEEN MAYLIN (SBN (SBN 155371)
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8 Attorneys for Defendants
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11 UNITED STATES DISTRICT COURT

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13 JOHN EARL CAMPBELL,

14 Plaintiff,

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19 Defendants.

20 Case No. C05-05434 MJJ

21 **DECLARATION OF CARA CHING-
 22 SENAHA IN SUPPORT OF
 23 DEFENDANTS' NATIONAL
 24 RAILROAD PASSENGER
 25 CORPORATION'S AND JOE DEELY'S
 26 MOTION FOR SUMMARY
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[Notice of Motion, Memorandum of Points
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 30 Time: 9:30 a.m.
 31 Courtroom: 11
 32 Floor: 19
 33 Judge: The Hon. Martin J. Jenkins

34 Complaint Filed: 12/30/05
 35 FAC Filed: 2/23/06
 36 Trial Date: 7/23/2007

37 **[Fed.R.Civ.Proc. 56]**

38 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

39 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 40 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

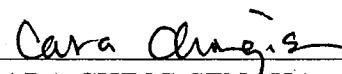
1 DEELY. I am licensed to practice law in the above-referenc
2 following statements based on personal knowledge.

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14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
18 
19 CARA CHING-SENAHA
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1 A. They've got these little valves on the bottom
2 of the locomotive near the wheels. If the wheels lock
3 up, you turn the valves, and it releases the brakes so
4 you can pull the locomotive, you know, without brakes.

03:39:11

5 Q. Okay. And is that true, Mr. Campbell?

03:39:25

6 MS. PRICE: Objection. Is what true?

7 THE WITNESS: Yeah. Is what true?

8 MS. MAYLIN: Q. Sure. The -- the charge that
9 you violated that rule?

10 MS. PRICE: Objection. Lacks foundation;
11 calls for speculation; vague as to "that rule."

03:39:43

12 MS. MAYLIN: Q. Do you understand what I'm
13 asking, Mr. Campbell?

14 A. I understand it, but you're wording it wrong.

15 Q. Okay. Well, why don't you correct me. I'm
16 not in the business like you are.

03:39:57

17 A. It's true I was charged with that violation.

18 Q. Okay.

19 A. That's the answer. It's true I was charged
20 with that violation.

03:40:08

21 Q. Okay. Is it true that you committed that
22 violation?

23 A. No.

24 Q. Okay. All right. Okay. I understand that
25 there was a formal hearing in response to that charge;

03:40:23

1 is that correct?

03:40:27

2 A. Yes.

3 Q. Do you recall when the hearing took place?

4 A. I don't have the exact dates.

5 Q. All right. A couple of months after the
6 incident?

03:40:35

7 A. Yes.

8 Q. Okay. And do you recall who the hearing
9 officer was?

10 A. I know the charging officer was Tim Sheridan.
11 The hearing officer I can't recall.

03:40:46

12 Q. Okay. How about Patrick Gallagher; does that
13 refresh your recollection?

14 A. Yes.

15 Q. And do you recall what decision Patrick
16 Gallagher came to?

03:40:58

17 A. Termination.

18 Q. Okay. All right. How many charges were you
19 charged with from that incident, do you recall?

20 A. I don't recall.

03:41:14

21 Q. Okay. All right. And did your union appeal
22 that decision?

23 A. Yes.

24 Q. Okay. And what was the finding of the appeal,
25 if you recall?

03:41:35

1 A They informed the company's position of
2 termination.
3 Q Okay. Did you receive -- and was that by the
4 Public Law Board?

03:41:37

5 A Say that again.

03:41:50

6 Q Since. Was that decision by the Public Law
7 Board?

8 A I believe so.

9 Q All right. And did you receive a copy of the
10 decision?

03:42:01

11 A Yes.

12 Q And I think I asked you, there was a hearing
13 where you testified; is that correct?

14 A Correct.

15 Q All right. And others testified as well?

03:42:17

16 A One other person testified. Two people
17 testified.

18 Q Okay. Who else testified?

19 A I believe Dave West and Earl Friend.

20 Q Okay. Did you hear Dave and Earl's testimony?

03:42:36

21 A I read it later.

22 Q When you read the testimony, did you form the
23 opinion that they had testified truthfully?

24 MS. PRICE: Objection. Lacks foundation;
25 calls for speculation; assumes facts.

03:42:49

1 of rules infractions?

03:54:33

2 A. No.

3 Q. Okay. Now that we've been talking about it
4 for a little bit, can you think of any other employees
5 who had more than two formal rules infractions and were
6 not fired?

03:54:48

7 A. At this time, I can't recollect. There are
8 some, but I can't recollect.

9 Q. What I'm marking -- oh, you know what, I
10 marked some other documents a while ago and didn't use
11 them.

03:55:22

12 (Whereupon, Defendants' Exhibit No.

13 12 was marked for identification.)

14 MS. MAYLIN: Q. Here's Exhibit 12,
15 Mr. Campbell, Bates-stamped D10292, Acknowledgement of
16 Receipt of Amtrak's Standards of Excellence. Sir, did
17 you sign that on September 30, '98?

03:55:28

18 A. Yes.

19 Q. Okay. And at that time, you received a copy
20 of the booklet, correct?

03:55:45

21 A. Correct.

22 (Whereupon, Defendants' Exhibit No.

23 11 was marked for identification.)

24 MS. MAYLIN: Q. Okay. And here is Exhibit
25 11, a one-page document, D10498. Mr. Campbell, is that

03:55:51

1 your signature there?

03:56:00

2 A. Yes.

3 Q. It's a receipt, and you received on -- it
4 looks like -- May 14, 2004, a copy of the "Service
5 Standards Reference Manual for Train Service and
6 On-Board Service Employees," correct?

03:56:10

7 A. Correct.

8 Q. Okay. And you understood that you were
9 responsible for reading and updating the manual, and you
10 had to follow the procedures, correct?

03:56:23

11 A. Correct.

12 Q. And that's true of all the booklets and
13 policies and procedures you received, you were
14 responsible for reading, understanding and following,
15 correct?

03:56:37

16 A. Correct.

17 (Whereupon, Defendants' Exhibit No.
18 19 was marked for identification.)

19 MS. MAYLIN: Q. All right. What I am marking
20 now as Exhibit 19 is a two-page document. It's a
21 September 17, 2004 letter to you signed by Patrick
22 Gallagher. There you go. And this is Mr. Gallagher
23 informing you that he finds that you were guilty of the
24 charges, correct?

03:56:43

25 A. Correct.

03:57:11

1 Q. Okay. And on page two, it details the charge
2 and the rule violation and the decision is to terminate
3 you from service effective immediately, correct?
4 A. Correct.

03:57:11

5 (Whereupon, Defendants' Exhibit No.
6 20 was marked for identification.)

03:37:38

7 MS. MAYLIN: Q. Okay. All right. And then
8 on your behalf, the UTU requested that the discipline be
9 expunged, correct? And here I've got a September 28,
10 2004 letter -- there you go, Mr. Campbell -- addressed
11 to the Director-Labor Relations, at Amtrak. It's from
12 a Mr. A.L. -- oh, I'm going to mispronounce it --
13 Suozzo, S-u-o-z-z-o. You received a copy of that,
14 Mr. Campbell?

03:57:55

15 A. Yes.

03:58:17

16 Q. All right.

17 (Whereupon, Defendants' Exhibit No.
18 21 was marked for identification.)

03:58:17

19 MS. MAYLIN: Q. And here what I've marked as
20 Exhibit 21 is a three-page letter, November 19, 2004.
21 It's directed to Mr. Suozzo, and it is from Larry
22 Amtrak Director-Labor Relations, where the appeal on
23 your behalf is denied. You received that, Mr. Campbell?

03:58:40

24 A. Yes.

25 Q. Sir, during the hearing where you testified,

03:59:10

1 other applicants, correct?

05:13:41

2 MS. PRICE: Objection. Incomplete
3 hypothetical; assumes facts.

4 THE WITNESS: Yes.

5 (Whereupon, Defendants' Exhibit No.
6 23 was marked for identification.)

04:48:10

7 MS. MAYLIN: Q. I'm marking as Exhibit 23, a
8 former page document. Here you go, Mr. Campbell. This is a
9 job reference 50173583. Have you seen this job posting
10 before Mr. Campbell?

05:14:07

11 A. Yes.

12 Q. Okay. And this is the November 21, 03
13 posting, right?

14 A. Yes.

15 Q. Okay. And this is the one where you faxed
16 your resume over to Mr. Ho, right?

05:14:16

17 A. Yes.

18 Q. Okay. And, Sir, do you have any reason to
19 dispute this - well, that's going to be phrased badly.
20 Sir, you understood that the summary of duties here are
21 the duties that Amtrak requires their engineers to
22 perform, correct?

05:14:32

23 A. Yes.

24 Q. Okay. And you understood that the "Education"
25 criteria, which is the next paragraph, is the required

05:14:48

1 education for Amtrak engineers, correct? 05:14:54

2 A. Correct.

3 Q. And you understood that the "Work Experience,"
4 the next section is the work experience that's required
5 for Amtrak engineers or applicants to an Amtrak engineer
6 position, that they must have that, correct? 05:15:07

7 A. Correct.

8 Q. Okay. And under "Other Requirements," you
9 understood that those other requirements are also
10 necessary for an applicant to have who was trying for an
11 engineer position, correct? 05:15:17

12 A. Correct.

13 Q. Okay. And then on the second page, it says,
14 "Other." Then you understood that the applicant, or
15 successful applicant would undergo engineering training,
16 correct? 05:15:41

17 A. Correct.

18 Q. And then at the end, under "Job Notes" it
19 has a last day to apply category, years experience,
20 et cetera, you understood that those were additional
21 criteria for applicants, correct? 05:15:54

22 A. Correct.

23 Q. Okay. Under "Work Experience," sir, and also
24 it's listed in "Summary of Duties," you understood that
25 a successful applicant for an engineer position with 05:16:24

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CORPORATION dba AMTRAK and JOE DEELY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,
Plaintiff.

Plaintiff,

V.

NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK, JOE DEELY,
and DOES 1-15, inclusive,

Defendants.

Case No. C05-05434 MJJ

**DECLARATION OF CARA CHING-
SENAHA IN SUPPORT OF
DEFENDANTS' NATIONAL
RAILROAD PASSENGER
CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

[Notice of Motion, Memorandum of Points and Authorities, and Declarations in Support of Motion concurrently filed]

Date: May 8, 2007
Time: 9:30 a.m.
Courtroom: 11
Floor: 19
Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05
FAC Filed: 2/23/06
Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

I, Cara Ching-Senaha, declare on the basis of personal knowledge:

1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for

Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

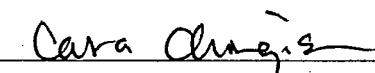
1 DEELY. I am licensed to practice law in the above-referenc
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
18 
19 CARA CHING-SENAHA
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1 Amtrak would have to have a safe work record, correct? 05:16:25
2 A. Correct.
3 Q. Okay. After June 1999, sir, did you again
4 ever apply for an engineer position at Amtrak?
5 A. Yes. 05:16:49
6 Q. When was that?
7 A. Every six months, twice a year.
8 Q. Okay. And how did you submit those
9 applications?
10 A. Fax and mail. 05:16:58
11 Q. To the L.A. HR?
12 A. (Nods head.)
13 Q. Got to say the word.
14 A. Oh. Yes.
15 Q. Okay. And, sir, when you did that, did you
16 keep a copy of your application? 05:17:06
17 MS. PRICE: Objection. Vague; overbroad.
18 THE WITNESS: No.
19 MS. MAYLIN: Q. Okay. Well, did you do it
20 every six months just as a matter of routine regardless
21 of what was posted, or did you do it in response to
22 seeing a posting? 05:17:20
23 A. I did it in response to seeing a posting.
24 Q. Okay. So, let's see, you saw a posting in
25 June '99, and you sent in your fax, right? 05:17:33

1 MS. MAYLIN: Just a moment. 05:28:59

2 (Discussion off the record.)

3 MS. MAYLIN: Q. Okay. So Mr. -- or Jason was

4 lackadaisical in your opinion --

5 A. Yeah. 05:29:31

6 Q. -- and Mr. Poitier was just not smart?

7 A. Yeah.

8 Q. Okay. And, sir, what makes you think that

9 they had less seniority than you?

10 A. Well, the seniority roster told me. 05:29:43

11 Q. Okay. But we have agreed, haven't we, that

12 seniority has nothing to do with whether or not an

13 individual is hired into an engineer position, correct?

14 MS. PRICE: Objection. Misstates the

15 witness's testimony. 05:29:56

16 THE WITNESS: Yeah.

17 MS. MAYLIN: Q. I think we talked about that

18 there's no bid nights, right?

19 A. We talked about it, yes.

20 Q. Okay. Is that true? 05:30:05

21 A. Is what true?

22 Q. There's no bid nights, yes.

23 A. Oh, there is no bid nights, yes.

24 Q. Okay. So seniority really doesn't matter

25 there, does it? 05:30:14

1 MS. PRICE: Objection. Misstates the
2 witness's testimony.
3

05:30:15

4 THE WITNESS: Yeah. Seniority and bid rights
5 are two different things.
6

05:30:21

7 MS. MAYLING: Q. Oh, all right. Well, let me
8 ask you, as far as you understand, is there any
9 requirement that Amtrak only hire, or first hire
employees into an engineer position from a conductor
position based on length of service?
10

05:30:40

11 A. No.
12 Q. Okay. All right. Did you -- so we're up to
13 November '03. Thus far, sir, have you had any
interviews for an engineer position?
14

05:31:00

15 A. I had one.
16 Q. When was that?
17 A. I think either December '02 or January '03.
18 Q. Okay. Who did you interview with?
19 A. I know one was Rich Barnes. And I cannot
remember the other two. But Rich Barnes was definitely
20 one of them.
21 Q. Okay. Can you describe the other two?
22 A. They was Caucasian, and they were engineers.
23 One was a union rep. That was Rich. And the other two
24 were engineers.
25 Q. Okay. All right. And you think that was in

05:31:24

05:31:36

1 A. I spoke to him.

05:41:31

2 Q. Meaning, hello, how you doing or --

3 A. Lou Bellotti introduced the crew one morning,
4 and he said, "That's my night crew: Ray Clarke, John
5 Campbell, Lars Michelson."

05:41:42

6 And I had said, "Hi, Joe." I don't think he
7 liked that. I think I was supposed to say, "Hi,
8 Mr. Deely."

9 Q. Okay. Did you have any other communications
10 with him?

05:42:03

11 A. I left him a message on his phone a couple of
12 times, when I had a problem with -- a mechanical
13 problem. I called him directly.

14 Q. Did he call you back?

15 A. No.

05:42:10

16 Q. Okay. All right. What information do you
17 have, Mr. Campbell, that Mr. Deely had any influence on
18 your termination?

19 A. All I have is word of mouth, you know.

20 Q. Okay. And who told you that Mr. Deely had
21 anything to do with your termination?

05:42:26

22 MS. PRICE: I'm going to have to instruct --
23 I'm compelled to instruct the witness, do not disclose
24 any conversations with counsel. She's asking you about
25 conversations you've had with people outside of

05:42:41

1 You know how you hear things, you know, so... 05:43:57

2 Q. So just little bits and pieces of --

3 A. Yes.

4 Q. -- small talk out there?

5 A. Yes. 05:44:05

6 Q. Okay. All right. Okay. How about this now, again with Mr. Deely, do you have any information, sir, that Mr. Deely had any influence on whether or not you were promoted to engineer during the times you applied for an engineer position? 05:44:22

11 A. No. No. Nothing like on paper, or concrete evidence as you called it, no.

13 Q. Well, did anybody tell you that or --

14 A. I just told you the Chad Skinner story.

15 MS. PRICE: And other than what he's already testified to? 05:44:39

17 MS. MAYLIN: Right.

18 Q. Chad Skinner told you after you applied the last time. Was there any other time that you heard that Mr. Deely had anything to do with the decision making as far as your application for an engineer position? 05:44:49

22 A. No.

23 Q. Now, from the June 2004 application that you made, sir, do you know who -- which employees were given an engineer position in '04, after that time? 05:45:21

1 A. Again, the seniority list would tell you that,
2 but I know it was five people this time. 05:45:27

3 Q. Okay. How about their races, do you know
4 their races?

5 A. Four were Caucasian and one was Vietnamese. 05:45:53

6 Q. Okay. So the first time you filed a DFEH
7 charge or EEOC charge was January '04; I think we talked
8 about. Did you have any communication with anybody
9 within Amtrak about the fact that you had filed a DFEH
10 charge, or I'm sorry. I think at that time it was an
11 EEOC charge. Did you have any communication with
12 anybody about that? 05:46:31

13 A. No supervisors.

14 Q. Okay. Well, how about co-workers?

15 A. Probably. 05:46:44

16 Q. What makes you say "probably"?

17 A. You know, frustration. Vent. You talk to
18 people.

19 Q. So you mentioned it to some co-workers?

20 A. Yes. 05:46:56

21 Q. All right. Other than that, did you have any
22 communication with anybody within Amtrak about the fact
23 that you filed that EEOC charge in 2004, January 2004?

24 A. Supervisor-wise, I don't think so.

25 Q. Yeah. How about anybody from HR? 05:47:12

1 A. No.

2 Q. All right. Anybody from administration?

3 A. I don't believe so.

4 Q. Okay. Do you have any information that

5 anybody at Amtrak even knew that you had filed a -- an

6 EEOC charge in January '04?

7 MS. PRICE: I'm going to object and instruct

8 the witness again.

9 You have to filter out any questions when she

10 says any information.

11 I object. The question is overbroad. It

12 seeks to invade the attorney-client privilege.

13 I will allow you to answer the question, but

14 you cannot -- you cannot disclose any communications

15 between you --

16 THE WITNESS: Between you and me.

17 MS. PRICE: Right. Any conversation with me

18 or anybody in my office.

19 THE WITNESS: Okay. Repeat the question.

20 MS. MAYLIN: Could you reread it? Thank you,

21 Sharon.

22 (Whereupon, the record was read as follows:

23 "Question: Do you have any information

24 that anybody at Amtrak even knew that you

25 had filed a -- an EEOC charge in January

05:47:15

05:47:26

05:47:42

05:47:54

05:48:05

05:48:07

1 '04?") 05:48:07

2 THE WITNESS: I would assume EEOC sent them a
3 copy of my complaint.

4 MS. MAYLIN: Q. Okay. I'm not asking for
5 your assumption, Mr. Campbell. Do you have any
6 information that anybody at Amtrak knew that you filed
7 it?

8 MS. PRICE: Well, I'm going to object. The
9 question is argumentative. He's given you his response,
10 so you want to answer -- 05:48:48

11 Do you have some other information you can
12 give her?

13 THE WITNESS: No.

14 MS. MAYLIN: Q. Okay. All right. Is there
15 any other time, Mr. Campbell, that you can recall
16 applying for an engineer position at Amtrak? 05:49:03

17 A. I think we've covered all of it.

18 Q. Okay. Let me ask you this, Mr. Campbell. Do
19 you have any information that you -- your filing an EEOC
20 charge in January '04 had any bearing on Amtrak's
21 decision to terminate you in September of '04? 05:49:35

22 MS. PRICE: I'm going to object. The question
23 is overbroad. It calls for a legal conclusion. It
24 lacks foundation, calls for speculation. Also, to the
25 extent it's overbroad, I'm going to ask -- have to 05:50:00

pt. 7

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8 Attorneys for Defendants
 9 NATIONAL RAILROAD PASSENGER
 10 CORPORATION dba AMTRAK and JOE DEELY

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION dba AMTRAK, JOE DEELY,
and DOES 1-15, inclusive,

Defendants.

Case No. C05-05434 MJJ

**DECLARATION OF CARA CHING-
SENAHA IN SUPPORT OF
DEFENDANTS' NATIONAL
RAILROAD PASSENGER
CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**[Notice of Motion, Memorandum of Points
and Authorities, and Declarations in
Support of Motion concurrently filed]

Date: May 8, 2007
 Time: 9:30 a.m.
 Courtroom: 11
 Floor: 19
 Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05
 FAC Filed: 2/23/06
 Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

I, Cara Ching-Senaha, declare on the basis of personal knowledge:

1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17
18 Cara Ching
19 CARA CHING-SENAHA
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1 instruct the witness again.

05:50:04

2 You have to filter it. Do not answer --
3 disclose any conversations or information that you've
4 learned from talking to anyone in my office.

5 THE WITNESS: Okay. The question again?

05:50:18

6 MS. MAYLIN: Q. Sure. Do you have any reason
7 to believe, Mr. Campbell, that the fact that you filed
8 an EEOC charge in January '04 had any bearing on
9 Amtrak's decision to terminate you in September '04?

10 MS. PRICE: Same objections.

05:50:38

11 THE WITNESS: Coincident, maybe.

12 MS. MAYLIN: Q. Okay. Other than your
13 feeling that it's coincidence, any other reason?

14 A. Nothing I can prove.

15 Q. Well, is there anything you can talk about
16 other than just your feeling that there might be some
17 connection?

18 A. I can say, word through the grapevine is
19 Mr. Deely did not like me because I was outspoken, and
20 within months -- two months after I heard that, I was
21 fired.

05:51:15

22 Q. Okay.

23 A. So...

24 Q. All right. But now let's get back to my
25 question. I appreciate the information, but back to my

05:51:20

1 question. Do you have any information that there was
2 any connection between a January '04 EEOC charge and a
3 September '04 decision to terminate you?

05:51:22

4 MS. PRICK. Same objection

5 MS. MAYLTIN. O. Other than what you've told
6 me

05:51:34

7 MS. PRITCH: Other than what you've already
8 testified to, and subject to the same objection,

9 MS. MAYLIN P. Right

10 **PROSECUTOR:** Do you have any information, Mr. **WITNESS:** I have no information.

05:51:41

11 MS. MAYLIN: Q. Okay. Same question now, a
12 little different, do you have any information, sir, that
13 your race had any bearing on Amtrak's decision to
14 terminate you in September '04?

15 MS. PRICE: Same objection. Same instruction.

05:52:00

16 THE WITNESS: I compared my record against the
17 other gentlemen that we talked about earlier, and they
18 did stuff that caused more and more damage than I got
19 accused of, and they're still working, so that's my gut
20 feeling.

05:52:20

21 MS. MAYLIN: Q. Okay. And we're talking
22 about Ray, Bill, and John?

23 A. Yes.

24 Q. Okay. Other than your belief that Ray, Bill,
25 and John had more rules infractions than you did, or

05:52:29

1 MS. MAYLIN: Q. Do you know -- 06:23:38

2 MS. PRICE: He is available in ten minutes, so
3 we'll have to take a break then.

4 MS. MAYLIN: Q. Do you know if Dan Roberts
5 had ever been issued a 20-day suspension for a rules
6 infraction? 06:23:45

7 A. Again, I don't know.

8 Q. Do you know if Dan Roberts had a formal
9 reprimand in his file?

10 A. I do not know. 06:23:56

11 Q. And do you know any of those things about
12 Alfonso Bell?

13 A. No, I do not.

14 Q. Okay. Okay. If you could go down to page
15 000019 this August 10, 2004 letter, Mr. Campbell. 06:24:20

16 A. Um-huh.

17 Q. Did you receive that from the Local Committee
18 on Adjustment?

19 A. Let me read it.

20 Q. Okay. 06:24:37

21 A. (Reviewing document.) Yes, I remember
22 receiving this.

23 Q. Okay. Sir, do you have any information that
24 Amtrak considers additional information above and beyond
25 the ranking after the panel interview? 06:25:34

1 Q. All right. Okay. All right. Sir, you -- 08:03:37
2 well, in 2000 -- well, we've been talking a little bit
3 here, sir. Earlier you'd listed three people for me who
4 you think had equal to or greater than numbers of rules
5 infractions -- can you -- and yet they were promoted.

6 Can you recall anyone else, now that we've been talking
7 for a bit, quite a long bit?

8 A. No.

9 (Whereupon, Defendants' Exhibit No.

10 31 was marked for identification.) 04:48:10

11 MS. MAXLING: Oh. Okay. What I'm attaching now
12 as Exhibit 31 -- I'm going to bunch these together.

13 Exhibit 31, Bates-stamped D01794, 95, 96, 97, and 98.

14 Now, I can't remember if we put this in as '01 or not,
15 are these all the exhibits? Oh, you've got some here,

16 1002

17 A. Yes

18 Q. Let me take a quick look. We may have done
19 this and then we can move on. Here we go. 8/6/01.

20 Yeah. Okay. I think we got that. 08:05:46

21 All right. What I have marked, though, as
22 Exhibit 31 then -- I'm going to make it a shorter
23 version -- and that is D01794.

24 Sorry, we talked earlier about an '01
25 application. Was this the posting that you applied for? 08:06:27

1 A. Yes. 08:06:49

2 Q. Okay. If you take a look back at Exhibit 24,
3 sir, you'll take a look on -- right above your signature
4 on Bates-stamped D01798, under "Applicant's
5 Qualifications," it says, "17 years of railroad
6 experience started in the S.P. track department, coupled
7 with three years of T&E experience with Amtrak West." 08:07:06

8 Sir, did you have 17 years of railroad experience in
9 August '01?

10 A. It was combined with -- not 17, no. 08:07:26

11 Q. Okay. How many years railroad experience did
12 you have in August '01? I think you had eight years at
13 the prior job, right?

14 A. Uh-huh. And three years at Amtrak.

15 Q. Okay. So that's 11 years, right? 08:07:50

16 A. Yeah.

17 Q. So you were off by six years; is that true?

18 A. Yeah. Where does it say "17" at?

19 Q. Where does it say that, sir?

20 A. The 17, yes. 08:08:02

21 Q. Here. If you -- here. D01798. You see where
22 you signed here? Do you see it now?

23 A. Yeah. I think that's more than seven.

24 Q. Okay. Well, in any event, 17 years is not
25 true, correct? 08:08:28

1 San Francisco, California 94105. 415/624-1300. The
2 time is 8:32, and we are off the record.

08:31:57

3 (Whereupon, the deposition was concluded at
4 8:32 p.m.)

5 --oOo--

08:32:09

6 I declare under penalty of perjury that the
7 foregoing is true and correct. Subscribed at
8 _____, California, this _____ day of
9 _____ 2007.

10

08:32:09

11

12

13 JOHN EARL CAMPBELL

14

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25

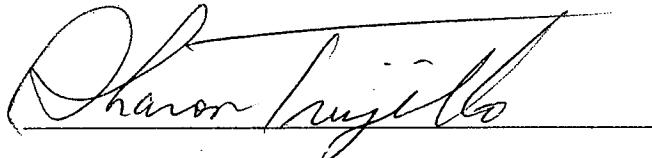
1 CERTIFICATE OF REPORTER
2

3 I, SHARON TRUJILLO, a Certified Shorthand
4 Reporter, hereby certify that the witness in the
5 foregoing deposition was by me duly sworn to tell the
6 truth, the whole truth, and nothing but the truth in the
7 within-entitled cause;

8 That said deposition was taken in shorthand by
9 me, a disinterested person, at the time and place
10 therein stated, and that the testimony of the said
11 witness was thereafter reduced to typewriting, by
12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to the said
15 deposition, nor in any way interested in the event of
16 this cause, and that I am not related to any of the
17 parties thereto.

18 Dated: March 7, 2007

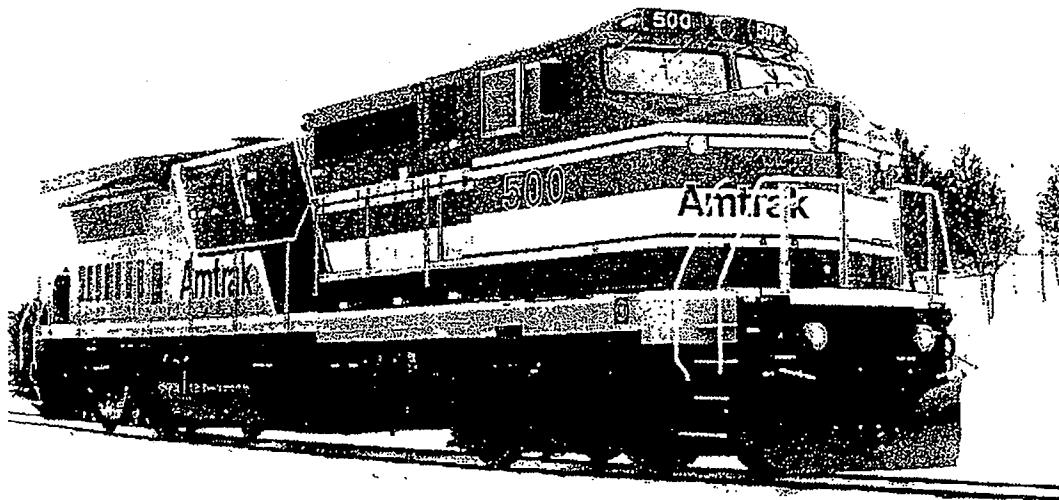
19
20 
21

22 SHARON TRUJILLO, CSR No. 6120
23
24



APPLICATION FOR EMPLOYMENT

IT IS THE POLICY OF THE NATIONAL RAILROAD PASSENGER CORPORATION TO PROVIDE EMPLOYMENT, TRAINING, COMPENSATION, PROMOTION AND OTHER CONDITIONS OF EMPLOYMENT IN A MANNER WHICH IS IN ACCORDANCE WITH ALL LEGAL REQUIREMENTS REGARDING RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, DISABILITY, OR VETERAN STATUS.



Please read carefully. Pre-Employment Statement

I certify that the information contained in this application is correct to the best of my knowledge. I understand that falsification of this information or failure to provide complete and accurate information are grounds for dismissal. I authorize the Employment/Professional/Personal references listed to give you any and all information concerning my previous employment and any pertinent information they may have. I voluntarily give Amtrak the right to make a thorough investigation of my past employment and activities, and I agree to cooperate in such investigation. I release from all liability or responsibility all persons, companies or corporations supplying any information to Amtrak. NOTE: In accordance with the FAIR CREDIT REPORTING ACT (Pre-Notification), I understand that as part of Amtrak's procedure for processing my application, an investigative report may be made whereby information is obtained through personal interviews with third parties, such as family members, business associates, financial sources, friends, neighbors, or others with whom I am acquainted. I understand that my employment with Amtrak is conditioned on successfully passing a physical examination, which will include a test to detect the presence of drugs and/or alcohol, and any future physical examinations as may be required by the Company. In consideration of my employment, I agree, if employed in a non-agreement position, that my employment and compensation can be terminated with or without cause, and with or without notice, at any time, at the option of either the Company or myself. I understand that no representative of Amtrak, other than the President or Assistant Vice President of Personnel, has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to terms of this Pre-Employment Statement, or any Amtrak Policy.

LAST NAME	CAMPBELL, John	
FIRST	J	
M.I.	E	
JOB APPLYING FOR		DATE OF APPLICATION
ASST. Conductor		9-6-98

APPLICANT'S SIGNATURE	EXHIBIT	DATE
<i>John Campbell</i>	PLT DEPT 2 for identification J. Campbell	9-1-98
WITNESS:	2-26-07	
DATE:	SHARON TRUJILLO, CSR 6120	

D10282

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION		Charge Presented To:	Agency(ies) Charge No(s):
<p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 376-2004-00295	
California Department Of Fair Employment & Housing and EEOC			
State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) Mr. John E. Campbell		Home Phone No. (Ind Area Code) (510) 632-4260	Date of Birth 11-20-1961
Street Address 2210-109th Avenue, Oakland, CA 94603		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name AMTRAK		No. Employees, Members Under 15	Phone No. (Include Area Code) (415) 591-7839
Street Address 5th and Townsend, San Francisco, CA 94111		City, State and ZIP Code 1851 5th St. Bldg A. OAK-94102	
Name 		No. Employees, Members 	Phone No. (Include Area Code)
Street Address 		City, State and ZIP Code 	
DISCRIMINATION BASED ON (Check appropriate box(es).)			
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.) <input type="checkbox"/> CONTINUING ACTION			
DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 01-08-2004 01-08-2004			
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <i>"Hired in OAKLAND"</i> <p>I was hired in 1998 and am a Conductor in the San Francisco, California crew base. In November 2003 I faxed my application for Engineer to Respondent's Human Resources office in Los Angeles. Interviews were held in December 2003, but I was not called. I learned on or about January 8, 2004 that the selectees were Jason Garmon and Michael Poirier, both Caucasian.</p> <p>I am senior to both selectees and believe I am better qualified for promotion. To the best of my knowledge and belief, Respondent has not promoted any Black employee to Engineer since 1998.</p> <p>I believe I have been discriminated against because of my race, Black, in violation of the statute.</p>			
RECEIVED FEB 09 2004 EEOC - OLO			
<p>EXHIBIT <i>3</i> <small>PLT DEFT</small> <small>for identification</small> <small>WITNESS: <i>J. Campbell</i></small> <small>DATE: <i>2-26-07</i></small> <small>SHARON TRUJILLO, CSR 6120</small></p>		NOTARY - When necessary for State and Local Agency Requirements	
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
I declare under penalty of perjury that the above is true and correct. <i>X 1-28-04 X John E. Campbell</i> <small>Date Charging Party Signature</small>		SUBSCRIBED AND SWEARN TO BEFORE ME THIS DATE (month, day, year)	
D09919			

Please list all employment starting with your present or most recent employer. Also include relevant voluntary and/or part-time work experience. Use additional sheet(s) if necessary.

PRESENT COMPANY			
DEW TRANSPORTATION			
STREET ADDRESS 1338 S Rowan Ave	CITY Los Angeles	STATE CA	ZIP CODE 90023
DATES EMPLOYED FROM 5-98	TO PRESENT	SUPERVISOR'S NAME Cornell Thompson	
TELEPHONE NO. (800) 444-0471	YOUR JOB TITLE TRUCK DRIVER	PRESENT SALARY 10.00 p. H.	
MAJOR DUTIES: Driving & delivering around the Bay Area			
WHY DO YOU WISH TO CHANGE? Benefits & a bump in pay.			
MAY WE CONTACT THE ABOVE NOW? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> IF NOT, WHEN?			
PRIOR COMPANY			
COUNTY OF ALAMEDA			
STREET ADDRESS 8000 Edgewater Drive	CITY OAKLAND, CA	STATE CA	ZIP CODE 94621
DATES EMPLOYED FROM 4-97	TO PRESENT	SUPERVISOR'S NAME MARCELLA VASQUEZ	
TELEPHONE NO. (510) 639-1331	YOUR JOB TITLE CARE-GIVER	SALARY 5.75 p. H.O.R.	
MAJOR DUTIES: CARE FOR THE DISABLE			
REASON FOR LEAVING Still with them			
PRIOR COMPANY			
VIA MESSENGER SERVICE			
STREET ADDRESS 1226 6th St.	CITY SAN FRANCISCO	STATE CA	ZIP CODE 94111
DATES EMPLOYED FROM 3-92	TO 4-97	SUPERVISOR'S NAME Mike Goodman	
TELEPHONE NO. ()	YOUR JOB TITLE COURIER	SALARY 6.75 p. H.	
MAJOR DUTIES: delivered inter-office mail throughout Nor-Cal.			
REASON FOR LEAVING Company went bankrupt			
PRIOR COMPANY			
SOUTHERN PACIFIC TRANS.			
STREET ADDRESS 1357 5th Ave	CITY Oakland	STATE CA	ZIP CODE 94607
DATES EMPLOYED FROM 5-84	TO 2-93	SUPERVISOR'S NAME Jim Smith	
TELEPHONE NO. (510) 891-7759	YOUR JOB TITLE MACHINE OPERATOR	SALARY 14.95 p. H.	
MAJOR DUTIES: Maintain & repair railroad right-of-way			
REASON FOR LEAVING Furnough			

D10284

DO YOU HAVE ANY RELATIVES EMPLOYED BY AMTRAK? YES NO

A RELATIVE IS A:

MOTHER, FATHER, MOTHER-IN-LAW, FATHER-IN-LAW, HUSBAND, WIFE, SON, DAUGHTER, SON-IN-LAW, DAUGHTER-IN-LAW, GRANDPARENT, GRANDCHILD, BROTHER, SISTER, BROTHER-IN-LAW, SISTER-IN-LAW, AUNT, UNCLE, NIECE, NEPHEW, STEPPARENT, STEPCHILD OF AN EMPLOYEE OR AN EMPLOYEE'S SPOUSE

IF YES, PLEASE LIST:

NAME	RELATIONSHIP	POSITION	LOCATION

PROFESSIONAL/PERSONAL REFERENCES

NAME ZELMA LOLLIE	ADDRESS 305 N. Alvin BASTROP, LA 78220	TELEPHONE NO. (512) 315-2810 6677
NAME CORNELL THOMPSON DEW TRNS	ADDRESS 1338 S. ROWAN AVE LOS ANGELES, CA 90023	OCCUPATION MOTEL MANAGER TELEPHONE NO. (800) 444-0471
NAME WADE HENDERSON	ADDRESS 8823 d. St. OAKLAND, CA	OCCUPATION DISPATCHER TELEPHONE NO. (510) 636-6844 OCCUPATION CITY WORKER

HAVE YOU EVER:

BEEN CONVICTED OF A CRIME WHICH HAS NOT BEEN EXPUNGED OR REMOVED FROM YOUR RECORD? YES NO

BEEN DISCIPLINED OR DISCHARGED FOR ABSENTEEISM, TARDINESS, FAILURE TO NOTIFY YOUR COMPANY WHEN ABSENT, OR ANY OTHER ATTENDANCE-RELATED REASON? YES NO

BEEN DISCIPLINED OR DISCHARGED FOR THEFT, UNAUTHORIZED REMOVAL OF COMPANY PROPERTY, OR RELATED OFFENSES? YES NO

BEEN DISCIPLINED OR DISCHARGED FOR FIGHTING, ASSAULT, OR RELATED OFFENSES? YES NO

BEEN DISCIPLINED OR DISCHARGED FOR INSUBORDINATION? YES NO

BEEN DISCIPLINED OR DISCHARGED FOR POSSESSION OR USE OF ALCOHOL OR DRUGS AT WORK? YES NO

BEEN TERMINATED OR ASKED TO RESIGN FROM EMPLOYMENT FOR ANY REASON? YES NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, PLEASE EXPLAIN.

D10285

PLEASE DESCRIBE ANY OTHER EXPERIENCES, SKILLS, LANGUAGES OR QUALIFICATIONS WHICH YOU CONSIDER RELEVANT TO YOUR ABILITY TO PERFORM THE JOB FOR WHICH YOU ARE APPLYING.

PION RAILROAD EXP. KNOW ABOUT D.T.C. TRACK WARRANTS. WHEN A SWITCH IS PROPERLY LINED HOW TO COUPLE-UNCUPLE CAN; CAN OPERATE A LOCOMOTIVE.

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

376-2004-00295

California Department Of Fair Employment & Housing

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. John E. Campbell

Home Phone No. (Ind Area Code)
(510) 632-4260Date of Birth
11-20-1961

Street Address City, State and ZIP Code

2210-109th Avenue, Oakland, CA 94603

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name AMTRAK	No. Employees, Members Under 15	Phone No. (Include Area Code) (415) 591-7839
----------------	------------------------------------	---

Street Address 5th and Townsend, San Francisco, CA 94111	City, State and ZIP Code 1851 5th St. Bldg A, SAN FRANCISCO, CA 94102
---	--

Name	No. Employees, Members	Phone No. (Include Area Code)
------	------------------------	-------------------------------

Street Address City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)	DATE(S) DISCRIMINATION TOOK PLACE Earliest 01-08-2004 Latest 01-08-2004
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)	<input type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

"Hired in OAKLAND"

I was hired in 1998 and am a Conductor in the San Francisco, California crew base. In November 2003 I faxed my application for Engineer to Respondent's Human Resources office in Los Angeles. Interviews were held in December 2003, but I was not called. I learned on or about January 8, 2004 that the selectees were Jason Garmon and Michael Poirier, both Caucasian.

I am senior to both selectees and believe I am better qualified for promotion. To the best of my knowledge and belief, Respondent has not promoted any Black employee to Engineer since 1998.

I believe I have been discriminated against because of my race, Black, in violation of the statute.

RECEIVED

FEB 09 2004

EEOC - OLO

EXHIBIT	3
DEPT	
for identification	
WITNESS:	J. Campbell
DATE:	2-26-07
SHARON TRUJILLO, CBR 6120	

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

x 1-28-04 x John E. Campbell
 Date Charging Party Signature

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE
(month, day, year)

D09919

U.S. EQUAL OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: John E. Campbell
2210 109th Avenue
Oakland, CA 94603

From: Oakland Local Office
1301 Clay Street
Suite 1170-N
Oakland, CA 94612

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
376-2004-00295	Julian F. Melendres, Investigator Support Asst	(510) 637-3242

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosure(s)

Joyce A. Hendy
Joyce A. Hendy,
Director

10/15/04
(Date Mailed)

cc: Elias Muñoz
EEO Compliance Manager
NATIONAL RR PASSENGER COR

EXHIBIT	PLT DEPT	4	for Identification
WITNESS:	<i>J. Campbell</i>		
DATE:	2-26-07		
SHARON TRUJILLO, CSR 8120			

000008

***** EMPLOYMENT *****
**COMPLAINT OF DISCRIMINATION UNDER
 HE PROVISIONS OF THE CALIFORNIA
 AIR EMPLOYMENT AND HOUSING ACT**

DFEH #

E-200506-M-0250-00-c

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (Indicate Mr. or Ms.)

John Earl Campbell

TELEPHONE NUMBER (INCLUDE AREA CODE)

810-632-4266

ADDRESS

2210 109TH AVE.

STATE/ZIP

OAKLAND CA 94603

COUNTY Alameda

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

AMTRAK

TELEPHONE NUMBER (Include Area Code)

ADDRESS

5040 WATER ST.

5TH FLOOR

DFEH USE ONLY

STATE/ZIP

OAKLAND CA

COUNTY 94607

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

DATE MOST RECENT OR CONTINUING DISCRIMINATION
TOOK PLACE (month, day, and year)

RESPONDENT CODE

E PARTICULARS ARE:

on SEPT. 17, 2007 I wasfired
laid off
demoted
harassed
genetic characteristics testing
forced to quitdenied employment
denied promotion
denied transfer
denied accommodation
impermissible non-job-related inquiry
other (specify)denied family or medical leave
denied pregnancy leave
denied equal pay
denied right to wear pants
denied pregnancy accommodation

Joe Deely

DIVISION SUPT.

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

BECAUSE OF MY:

sex
age
religion
 race/colornational origin/ancestry
marital status
sexual orientation
associationphysical disability
mental disability
other (specify)cancer
genetic characteristic(Circle one) filing;
Protesting; participating in
investigation (retaliation for)

A REASON GIVEN BY

Joe Deely - DIVISION SUPT.

Name of Person and Job Title

Was
because of
please state
what you
believe to be
reason(s))RETALIATION FOR FILING AN EEOC DISCRIMINATION
COMPLAIN AGAINST AMTRAK FOR NOT PROMOTING

BLACKS TO THE ENGINEER POSITION IN OAKLAND

I to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I file a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the EEOC "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to
facts stated on my information and belief, and as to those matters I believe it to be true.

8-16-07

John Earl Campbell

COMPLAINANT'S SIGNATURE

EXHIBIT	PIT	5
DEFT	for identification	
WITNESS:	Joe Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

OAKLAND

REC

000015

800-533-0003 (510-555)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED: 08/17/07 AUG 17 2005

U.S.
EMPLOYER

S

STATE OF CALIFORNIA

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICE AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
 1515 Clay Street, Suite 701, Oakland, CA 94612-2512
 (510) 622-2941 TTY (800) 700-2320 Fax (510) 622-2951
 www.dfeh.ca.gov



August 29, 2005

JOHN EARL CAMPBELL
 2210 109th Avenue
 Oakland, CA 94603

RE: E200506M0250-00-c
CAMPBELL/AMTRAK

Dear JOHN EARL CAMPBELL:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective August 17, 2005 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

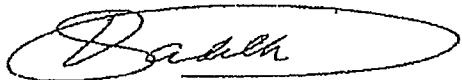
EXHIBIT	PLR (DEPT)	6	for identification
WITNESS:	J. Campbell		
DATE:	2-26-07		
SHARON TRUJILLO, CSR 6120			

EXHIBIT A

Notice of Case Closure
Page Two

The Department of Fair Employment and Housing does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, enclosed in an oval. The signature appears to read "Dorothy Padilla".

Dorothy Padilla
District Administrator

cc: Case File

EEO Representative
Human Resource Department
AMTRAK
5041 Water Street 5th Fl
Oakland, CA 94607

DFEH-200-43 (04/03)

NEW-HIRE CHECKLIST - AGREEMENT OVERLAYER POSITION

YES NO N/A

() () () NRPC 2525 STANDARDS OF EXCELLENCE

() () () HEALTH & WELFARE BENEFITS - AMPLAN

() () () NATIONAL DENTAL PLAN - AETNA GP12000

() () () BUSINESS TRAVEL ACCIDENT INSURANCE (CG0386430-06)

() () () APPLICABLE LABOR AGREEMENT

() () () EEO INTERNAL COMPLAINT PROCEDURES HANDOUT

() () () AFFIRMATIVE ACTION PROGRAM

() () () EQUAL EMPLOYMENT OPPORTUNITY POLICY

() () () ATTENDANCE POLICY

() () () FEDERAL/STATE W4 FORMS

() () () EMPLOYEE INFORMATION FORM - NRPC 2001

() () () AUTHORIZATION FOR DIRECT DEPOSIT - NRPC 2032

() () () SAVINGS BOND APPLICATION FORM

() () () EMPLOYEE ASSISTANCE PROGRAM BOOKLET

() () () EDUCATIONAL ASSISTANCE POLICY

() () () RAILROAD RETIREMENT & SURVIVOR BENEFITS BOOKLET

() () () EMPLOYEE ELIGIBILITY VERIFICATION (INS FORM - I-9)

() () () SEXUAL HARASSMENT INFORMATION

() () () FLASH PASS

DATE: 9-30-98SIGNATURE: John Earl CampbellSS #: 434-21-6810NAME: John Earl Campbell
(PLEASE PRINT)POSITION: ASST. Conductor

D10275

PERSONNEL DEPARTMENT REPRESENTATIVE: Denise H. Sergeant

EXHIBIT	8	for identification
BBF	BBF	BBF
WITNESS:	John Earl Campbell	SHARON TRUJILLO, CSR 6120
DATE:	2-26-07	

Receipt

My signature indicates that I have received a copy of the *Service Standards Reference Manual for Train Service and On-Board Service Employees*. I understand that I am responsible for reading and updating my manual and that I must follow the procedures outlined. I also understand that this receipt will be placed in my personnel file.

Name: John Campbell
(please print)

Signature: John Campbell

Date: 3-14-07

Issuing Location: OK Hand

Service Standards Manual No. 2

EXHIBIT	PLT. DEPT.	11	for identification
WITNESS:	<u>J. Campbell</u>		
DATE:	<u>2-26-07</u>		
SHARON TRUJILLO, CSR 6120			

D10498

ACKNOWLEDGEMENT OF RECEIPT OF ~~AMTRAK~~ STANDARDS OF EXCELLENCE

I have received a copy of the booklet entitled "Amtrak Standards of Excellence." I understand that I should read the booklet carefully and that I will be expected to follow the standards of excellence outlined in it. I understand that failure to follow these standards will result in appropriate corrective or disciplinary action.

Employee Signature: John Earl Campbell

Print Name: John Earl Campbell

Date: 9-30-98

Signature of Company Representative: Denise H. Sargent

Print name: Denise H. Sargent

Date: 9/30/98

Please detach this form and give to company representative for your employee file.

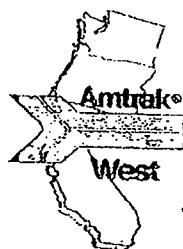
11

EXHIBIT		12
P.I.T. DEPT.		
for Identification		
WITNESS:	J. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

D10292

4-7001-4 880044 2000-07-26

50-43356-6



National Railroad Passenger Corporation, California Corridor, 1851-A 5th Street, Oakland, CA 94607

WAIVER OF RIGHT TO FORMAL INVESTIGATION

Date: April 12, 2000

I hereby waive my right to the Formal Investigation originally scheduled for April 12, 2000, 2:00 p.m., at Mechanical Facility, 250 Wood St., Oakland, California in connection with the following:

Charges: "Your alleged failure to follow the General Code of Operating Rules, Third Edition, 1.1.3, 6.28, 7.1, 7.3, & 7.5; Safety rule: 5316(e); and AMT-3 rule 16.2.2.

Specifications: Damage to equipment during the 11PM yard assignment of March 24, 2000. Damage to the cables occurred when 8804 was cut from car 8030 on 2 track. And further damage was done when 8804 was moved to 8 track. The 8027 and 8020 were in the 8 track. The 8020 was shoved into the 8027 by the move of the 8804. Damages were unreported.

I further hereby agree to accept the following discipline assessed by the National Railroad Passenger Corporation:

A letter of reprimand will be issued to you and placed in your file.

John Campbell
Employee Name (Print)

John Campbell
Employee Signature

4-13-00

Date

Joe M. M.

Witness Signature

4-13-00

Witness Signature

Cc: B. Barnes
R. A. Wood
Roger Butler - File # 0161.00
R. Bellounini-UTU Local Chairman

EXHIBIT		13
PLT DEPT.		
WITNESS:	Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

National Railroad Passenger Corporation, Law Department, 344 Mira Loma Avenue, Glendale, California 91204

DECISION

March 28, 2002
 File #LAX-UTU-02/DISC
 Case #019.02

FedEx Tracking #8313 2752 9178

Mr. John Campbell
 2210 109th Avenue
 Oakland, CA 94603

EXHIBIT	14	for identification
REC'D DEPT.	J. Campbell	
WITNESS:	2-26-07	
DATE:	SHARON TRUJILLO, CSR 6120	

Dear Mr. Campbell:

By letter, dated January 17, 2002, you were charged with the following misconduct:

Charge 1: Your alleged violation of the General Code of Operating - Fourth Edition - April 2, 2000 - Rule 6.28 - Movement on Other than Main Track, which reads, "Except when moving on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:

- ◆ Train.
- ◆ Engine.
- ◆ Railroad car.
- ◆ Men or equipment fouling the track.
- ◆ Stop Signal or Derail or switch lined improperly."

Charge 2: Your alleged violation of the General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 7.1. Switching Safely and Efficiently, which reads in part... "While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property."

Charge 3: Your alleged violation of the General Code of Operation Rules - Fourth Edition - April 2, 2000 - Rule 7.4 Precautions for Coupling or Moving Cars or Engines, which reads "Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.

Make couplings at a speed of not more than 4 MPH. Stretch the slack to ensure that all couplings are made."

Charge 4: Your alleged violation of the General Code of Operation Rules - Fourth Edition - April 2, 2000 - Rule 7.12 Movements into Spur Tracks, which reads in part... "When shoving into a spur track, control movement to prevent damage at the end of track..."

EXHIBIT D

Decision Letter
Mr. John Campbell
Case #019.02
Page Two

Specifications: It is alleged that while working as the Conductor on Yard Job CYO-4 on January 10, 2002, while shoving into Fume track in the Oakland yard with 17 cars and 3 units, you were directing the movement when an alleged hard coupling resulted in equipment damage and the derailment of a boxcar.

After one postponement, the Hearing Officer conducted a disciplinary investigation into the above-quoted charges. The investigation was conducted on March 15, 2002, in which your representative were in attendance. The following findings are based on the evidence and testimony presented at the investigation:

The rule cited was in effect and applicable to you at the time of the alleged wrongdoing, as it is applicable to all Amtrak employees in your job category.

The charges were sustained primarily, although not exclusively, by your own testimony and omission, and the testimony of Mr. Sid Birckett.

Based on the foregoing findings and the hearing record as a whole, I find that you are guilty of the above-quoted charges. The transcript of the aforementioned investigation will be forthcoming per the agreement with the union.

Sincerely,



Roger R. Butler
Hearing Officer
Western Region

1 KATHLEEN MAYLIN (SBN (SBN 155371)
2 CARA CHING-SENAHA (SBN 298467)
3 JACKSON LEWIS LLP
4 199 Fremont Street, 10th Floor
5 San Francisco, California 94105
6 Telephone: (415) 394-9400
7 Facsimile: (415) 394-9401

8 Attorneys for Defendants
9 NATIONAL RAILROAD PASSENGER
10 CORPORATION dba AMTRAK and JOE DEELY

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 JOHN EARL CAMPBELL,

14 Plaintiff,

15 v.

16 NATIONAL RAILROAD PASSENGER
17 CORPORATION dba AMTRAK, JOE DEELY,
18 and DOES 1-15, inclusive,

19 Defendants.

20 Case No. C05-05434 MJJ

21 **DECLARATION OF CARA CHING-
22 SENAHA IN SUPPORT OF
23 DEFENDANTS' NATIONAL
24 RAILROAD PASSENGER
25 CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

26 [Notice of Motion, Memorandum of Points
and Authorities, and Declarations in
Support of Motion concurrently filed]

27 Date: May 8, 2007
28 Time: 9:30 a.m.
Courtroom: 11
Floor: 19
Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05
FAC Filed: 2/23/06
Trial Date: 7/23/2007

29 [Fed.R.Civ.Proc. 56]

30 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

31 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
32 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

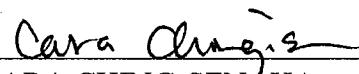
1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

17 
18 _____
19 CARA CHING-SENAHA
20
21
22
23
24
25
26
27
28

Mar 22 02 04:17p
3-20-2002 2:46PM

Jay Commer CalifCorr
FROM [REDACTED] W DEPARTMENT 8105472532

510-433-5915

H 4

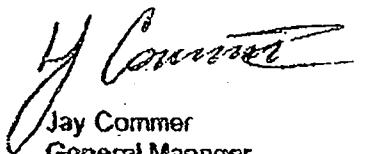
p. 4

Decision Letter
Mr. John Campbell
Case #019.02
Page Three

Based on the decision of Hearing Officer Butler, you are hereby assessed discipline of:

- * TEN DAYS SUSPENSION TO INCLUDE THE FOLLOWING:
- * 4 Days Time Served from January 12, 2002 - January 15, 2002 and 6 Days Suspension to be served between April 3, 2002 and to include April 8, 2002, and Ten Days to be held in abeyance.

Sincerely,



Jay Commer
General Manager
California Corridor

cc: G. Baxter
R. Belluomini-FedEx Tracking #8313 2752 1989
Personnel
Labor Relations

HMT RAK 305#

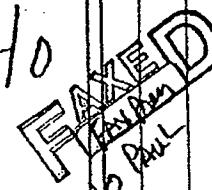
501735 83

Engine SERVICE

5/6

May 1

Ho



11-19-03

External P

EXHIBIT	B.I.T. DEPT.	17
WITNESS:	for identification S. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

D09960

JOHN CAMPBELL
2210 109th. AVE.
(510) 632-5081
OAKLAND, CALIFORNIA
94603-4032

JOB HISTORY

5-84/2-92 SOUTHERN PACIFIC TRANS.
MACHINE OPERATOR
REPAIR RAILROAD RIGHT-OF-WAY; OPERATED SEVERAL TRACK MACHINES
TAMPERS, BALLAST, REGULATOR, HI-RAILER, ETC.

2-92/4-97 VIA MESSENGER SERVICE
COURIER
DELIVERED INTER-OFFICE IN DOWNTOWN SAN FRANCISCO.

4-97/PRESENT COUNTY OF ALAMEDA
IN-HOME CARE GIVER
PROVIDE IN-HOME SERVICE TO THE AGING & DISABLE.

EDUCATION

9-80/6-81 MERRITT COLLEGE 1 SEMESTER-LITERATURE OAKLAND, CA

10-77/6-80 OAKLAND HIGH SCHOOL CLASS OF 80 3.26 G.P.A.

ACTIVITIES FISHING, HIKING, FOOTBALL, BASEBALL & BOWLING.
AWARDS PERFECT ATTENDENCE SR. YEAR OF HIGH SCHOOL.
SAFETY AWARD 1987 SOUTHERN PACIFIC.

REFERENCES AVAILABLE UPON REQUEST

D09961

09/17/2004 14:31 51043 815
10/16/2004 10:15 121 97092AMTRAK
LAW DEPARTMENTPAGE 01
PAGE 01

NATIONAL RAILROAD PASSENGER CORPORATION

810 North Alameda Street, Los Angeles, CA 90012

DECISION



September 17, 2004
 File #LAX-UTU-04/DISC
 Case #386.04

Federal Express #7919 3003 8200

Mr. John Campbell
 2210 109th Avenue
 Oakland, CA 94603

Dear Mr. Campbell:

By letter, dated August 6, 2004, Case #386.04, you were directed to appear for a formal investigation.

A formal disciplinary investigation was conducted on September 9, 2004, in which you and your union representative were in attendance. The following findings are based on the evidence and testimony presented at the investigation:

1. The rules cited were in effect and applicable to you at the time of the alleged wrongdoing, as it is applicable to all Amtrak employees in your job category.
2. Charge 2 was not sustained.
3. Charges 1, 3, 4 and 5 were proven. It is evident on the record by the testimony of the Corporation's witnesses and your own testimony that you clearly violated the rules and instructions regarding the movement and coupling of cars and engines.

Based on the foregoing findings and the hearing record as a whole, I find that you are guilty of the charges. The transcript of the aforementioned investigation is enclosed.

Sincerely,

Patrick Gallagher
 Hearing Officer
 Western Region

EXHIBIT	PLT	19
WITNESS:	for Identification	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 8120		

EXHIBIT J

09/17/2004 14:31 51043 915

AMTRAK

PAGE 82

Decision Letter
Mr. John Campbell
Case No. 386.04
Page Two



Based on the decision of Hearing Officer, Gallagher, you are hereby assessed discipline of:

Termination from service, effective immediately. This decision is based on the current charges and your previous Discipline Record listed below:

<u>Date</u>	<u>Charge/Rule Violation</u>	<u>Discipline Assessed</u>
• 4/4/00	GCOR Rules - 1.1.3 Accidents, Injuries, and defects, 6.28 Other than Main Track Movements, 7.1 Switching safely, 7.3 Switching precautions, 7.5 Testing Hand Brakes, 7.6 Securing cars and engines	Waived
• 1/14/02	GCOR Rules - 7.1 Switching Safely and Efficiently, 7.4 Precautions for Coupling and Moving Cars or Engines, 7.12 Movements into Spur Tracks	S10

Sincerely,

A handwritten signature in black ink that reads "SE Shelton".

S. E. Shelton
 District Superintendent
 Pacific Division – Bay District

SES/lr

cc: E. Adams - UTU Chairman -- Fed Ex Tracking 7902 6820 6654
 L. C. Hriczak -- Director - Labor Relations
 T. Duffy -- Director -- Human Resources

November 9, 2004

Mr. A. L. Suozzo, General Chairperson
 United Transportation Union
 1515 Market Street, Suite 708
 Philadelphia, PA 19102

Re: OC-UTU-SD-1678D
 J. Campbell

Dear Mr. Suozzo:

We discussed this case during our conference on October 27, 2004, with Mr. R. M. Lenfest, of your staff. The case involves the dismissal of Conductor John Campbell, Oakland, California, in connection with the following charges:

"Charge 1: Your alleged violation of Amtrak's Service Standards for Train Service Employees - Manual No. 2 (effective 5/3/2004) - Chapter 3B - Safety Rules for Train Service Employees - Rule 5800 - Coupling or Uncoupling Engine or Cars, which reads

'Prior to going on, under or between standing equipment for the purpose of coupling or uncoupling engines or cars, crewmembers must:

- Discuss safety matters and work to be performed.
- Communicate before action is taken.
- Protect against moving equipment.
- Secure equipment before action is taken.
- Mentor less experienced employees to perform service safely.'

Charge 2: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 7.1 - Switching Safely and Efficiently, which reads in part... 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'

Charge 3: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 1.47 - Duties of Trainmen and Enginermen, Item D Other Crew Members' Responsibilities, Part I. 'To ensure the train is operated safely and rules are observed, other crew members must assume as much responsibility as possible to prevent accidents or rules violations.'

EXHIBIT		21
PLT.	DEPT.	for identification
WITNESS:	J. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

EXHIBIT M

Mr. A. L. Suozzo
November 9, 2004
Page 2

Re: OC-UTU-SD-1678D
J. Campbell

Charge 4: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 7.4 - Precautions for Coupling or Moving Cars or Engines, which reads in part... 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.'

Charge 5: Your alleged violation of Amtrak Air Brake and Train Handling Rules and Instructions, AMT-3 - Revised and Reissued August 19, 2002 - Rule 2.14.16: which reads... 'Multiple lite locomotives may be moved within the confines of a yard or terminal without connecting the M.U. hoses, as long as the brake pipe and main reservoir hoses are connected with associated angle and main reservoir cocks open.'

Specification: It is alleged that on July 24, 2004 while assigned to position CYO103 working as the Conductor in the Oakland Diesel Shop you cut out the brakes on a locomotive and failed to properly secure it prior to coupling."

During conference, the Organization contended that the Carrier failed to call the assistant conductor to testify; that the Claimant's inability to connect air hoses on the pit mitigated his guilt; and that Claimant's actions did not result in damage or delay to a train. The union contended further, that in any event, the discipline assessed was excessive. For these reasons, the Organization requested that the discipline be expunged from the Claimant's record and that he be restored to service with pay for time lost and all rights and benefits unimpaired.

The record indicates that the Claimant was properly notified, in writing, of the charge against him and was given proper notice to appear for the investigation on August 10, 2004. At the investigation, which had been postponed--by mutual agreement--until September 9, 2004, the Claimant was present and represented by a duly authorized representative of the Organization, who was permitted to cross-examine witnesses and present evidence on his behalf.

There is no evidence in the record in this case that any action of the carrier was an abuse of the discretion vested in it. The record clearly shows that the Claimant's rights to a fair and impartial investigation were not violated and that there is substantial evidence to support the Hearing Officer's finding that he was guilty of charges 1, 3, 4 and 5. Charge 2 was not sustained.

The Carrier was not required to call the assistant conductor to testify inasmuch as the charges were proven through the testimony of Mr. Dave West, Foreman, as well as Claimant's admission that he disabled the brakes on the locomotive and left it on the pit. Their testimony disclosed that the locomotive rolled away during a hard coupling on the service track because the Claimant had disabled its brakes. The record reveals that Foreman West ran after the locomotive, boarded it, cut the trucks back in, and was able to stop it from rolling further.

Mr. A. L. Suozzo
November 9, 2004
Page 3

Re: OC-UTU-SD-1678D
J. Campbell

The Claimant has offered no evidence in support of his unsubstantiated assertion that it was unsafe to cut in the locomotive's trucks while it was on the pit. Such contention is nothing more than a self-serving attempt to mitigate his admitted violation of the rules with which charged.

Finally, in view of the Claimant's admission and in consideration of his service record, which includes progressive discipline, both a reprimand and a twenty-day suspension (ten days actual and ten held in abeyance), for operating rule violations involving switching, securing, and coupling equipment, the discipline assessed was commensurate and was not arbitrary, capricious or excessive. The Claimant has been afforded sufficient opportunity to correct his behavior to comply with the Carrier's operating rules and failed to do so. The Carrier need not retain employees in its service who are unable to work safely and are either unable or unwilling to comply with the Carrier's operating rules.

For these reasons, your appeal is denied in its entirety.

Very truly yours,

LCH/11/9/04
Larry C. Hriczak
Director-Labor Relations

bc: Joe Deely
Steve Shelton
Bob Schmitt
Milton Lundy
Betty Blair
Jim Ryan
Lou De Phillips
Jennifer Rieker
Val Giulian
Lisa Cardine
Dick Wood
Rick Sandler
Library

Job Reference # 50173583

Amtrak - California-Oakland/East Bay - Passenger Engineer (2) eff 11/14/2003

The closing date for this position is November 21, 2003. The salary for this position is \$16.11 per hour.

Internal applicants only.

Summary of Duties:

Consistently and safely operates locomotives and trains in compliance with federal regulations and corporate policies. Operates equipment during varying work hours within a 24/7 transportation environment maintaining alertness, situational awareness and vigilance. Thinks and functions independently and utilizes clear and effective verbal communication skills in interaction with fellow crew members and other personnel responsible for safe and efficient train movement.

Education:

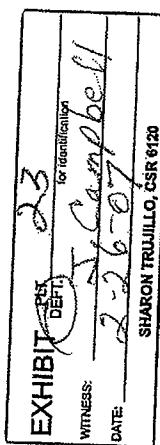
High School diploma or GED required. Some college or vocational training preferred.

Work Experience:

Some work experience demonstrating the ability to maintain alertness, awareness and vigilance, as well as clear, effective verbal communication skills in the performance of work. Satisfactory attendance and safe work record. Prior railroad operating experience and work history that demonstrates ability to adapt to variable and often changing work hours preferred. Preference given to individuals who were trained by a Class 1 carrier or equivalent passenger railroad and are currently certified as Class 1 Train Service Engineers.

Other Requirements:

1. Must provide a certified copy of motor vehicle driving record from the chief of the state driver's licensing agency in which the applicant was last issued a license and any license(s) issued or reissued from other state(s) within the preceding 60 months. Motor vehicle records must be void of any drug and alcohol violations within the previous 36 months.
2. Must have a motor vehicle driving record void of any convictions or state action canceling, revoking, suspending or denying a driver's license for operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance within the last 36 months or a record of refusal to undergo such testing as required by state law within the last 36 months.
3. Must sign a release of records authorizing all previous railroad employers to provide Amtrak with background information, if applicable. In accordance with FRA regulations, previous



railroad service records must be void of any drug and alcohol violations within the previous 60 months.

Other:

If selected, incumbent will be required to successfully complete Engineer Training as follows:

Individuals not previously certified as Class 1 Train Service Engineers:

7-10 weeks classroom and field work while headquartered at Amtrak's Training Center in Wilmington, DE; followed by extensive qualifying and on-the-job training associated with the Crew Base for which hired; paid at the student training rate until incumbent achieves certification as a Class 1 Train Service Engineer (currently \$16.11/hour straight time).

Individuals currently certified as Class 1 Train Service Engineers:

2-4 weeks classroom and field work while headquartered at Amtrak's Training Center in Wilmington, DE, followed by additional qualifying associated with the Crew Base for which hired; paid at the rate determined by the agreement schedule.

Incumbents are subject to periodic medical examinations including random drug and alcohol screenings.

Travel:

100 percent

Job Notes

Last Day to Apply: 11/21/2003

Job Category: Transportation

Years of Experience: 1-5

Travel Requirements: High

Relocation Benefits may Apply: No

Referral Bonus: 0 points

AMTRAK is an equal opportunity employer committed to employing a diverse workforce. Internal AMTRAK employees must complete a job opportunities application to apply for positions.

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Notice of Formal Investigation

Fed Ex Tracking # 7917 5568 9868

January 17, 2002

Exh #1

Mr. John E. Campbell
2210 109th Avenue
Oakland, CA 94603

Case No. 019.02

Dear Mr. Campbell:

You are hereby directed to appear for a Formal Investigation to be conducted as follows:

Date: January 25, 2002
Time: 3:00 PM
Location: Amtrak's Jack London Station
245 2nd Street, 2nd Floor
Oakland, CA 94607

The purpose of this investigation is to develop the facts and determine your responsibility, if any, in connection with the following:

Charge 1: Your alleged violation of the **General Code of Operating – Fourth Edition – April 2, 2000 – Rule 6.28 – Movement on Other than Main Track**, which reads, "Except when moving on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:

- ❖ Train.
- ❖ Engine.
- ❖ Railroad car.
- ❖ Men or equipment fouling the track.
- ❖ Stop Signal or Derail or switch lined improperly."

Charge 2: Your alleged violation of the **General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.1, Switching Safely and Efficiently**, which reads in part... "While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property."

EXHIBIT 27

for Identification

WITNESS:	J. Campbell
DATE:	2-26-07
SHARON TRUJILLO, CSR 6120	

Mr. John Campbell

Case No. 019.02

Page 2

Charge 3: Your alleged violation of the **General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.4 Precautions for Coupling or Moving Cars or Engines**, which reads, “Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.

Make couplings at a speed of not more than 4 MPH. Stretch the slack to ensure that all couplings are made.”

Charge 4: Your alleged violation of the **General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.12 Movements into Spur Tracks**, which reads in part... “When shoving into a spur track, control movement to prevent damage at the end of track....”

Specifications: It is alleged that while working as the Conductor on Yard Job CYO-4 on January 10, 2002, while shoving into Fume track in the Oakland Yard with 17 cars and 3 units, you were directing the movement when an alleged hard coupling resulted in equipment damage and the derailment of a box car.

You may produce any witnesses you desire and may be accompanied by a representative as provided in your current and governing agreement, without expense to the National Railroad Passenger Corporation.

All requests for postponements of this investigation must be handled through the Hearing Office at (818) 547-2519.

Sincerely,

Gregg Baxter
Assistant General Manager
California Corridor

cc: L. J. Commer - GM
S. Birckett – AGM
R. Wood – Labor Relations
R. Butler – Hearing Office
R. Belluomini – UTU Local Chairman
L. Bellotti – Facility Manager
D. Roberts – General Foreman
M. McBride – Manager Operating Rules
R. Robusto – Senior Director OPS

PUBLIC LAW BOARD NO. 6478

Case No. 37
Award No. 37

(United Transportation Union

PARTIES TO DISPUTE:

(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

"Request the discipline of a ten days suspension to include the following: 4 days time served from January 12, 2002 - January 15, 2002 and 6 days suspension to be served between April 3, 2002 and to include April 8, 2002, and ten days to be held in abeyance, imposed upon John Campbell be rescinded and expunged from this record, and that he be compensated for all time lost in connection with the following charges:

Charge 1: Your alleged violation of the General Code of Operating - Fourth Editions - April 2, 2000 - Rule 6.28 - Movement on Other Than Main Track, which reads, 'Except when moving on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:

- Train
- Engine
- Railroad Car.
- Men or equipment fouling the track.
- Stop Signal or Derail or switch lined improperly.'

Charge 2: Your alleged violation of the General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.1 Switching Safely and Efficiently, which reads in part... 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'

Charge 3: Your alleged violation of General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.4 Precautions for Coupling or Moving Cars or Engines, which reads, 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.'

EXHIBIT	PLT DEPT	29	for identification
WITNESS:	J. Campbell		
DATE:	2-26-07		
SHARON TRUJILLO, CSR 6120			

D09554

Public Law Board No. 6478
Case No. 37: Award No. 37
Page 2 of 3

'Make couplings at a speed of not more than 4 MPH. Stretch the slack to ensure that all couplings are made.'

Charge 4: Your alleged violation of General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.12 Movements into Spur Tracks, which reads in part... 'When shoving into a spur track, control movement to prevent damage at the end of the track...'

Specifications: It is alleged that while working as the Conductor on Yard Job CYO-4 on January 10, 2002, while shoving into the Fume track in the Oakland yard with 17 cars and 3 units, you were directing the movement when an alleged hard coupling resulted in equipment damage and the derailment of a boxcar." [System Docket OC-UTU-SD-829D]

FINDINGS:

This Board, after hearing upon the whole record and all the evidence finds that the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

This Board will forego a full discussion of the instant case due to its careful examination of the record on the property. The Agreement provision specifically sets forth in Rule 25 (Discipline) the procedures for appeal. Once the discipline is imposed, the appeal must be made within fifteen (15) days "to the Labor Relations officer having jurisdiction" in the process. There is no dispute in this record, that the Claimant was notified by date of March 28, 2002 of the Carrier's findings of guilt. There is no dispute in this record that the Organization filed claim with the Carrier's highest officer by letter of April 12, 2002. There is no record of any proper handling at the second level of appeal before it went to the highest officer.

The Board is compelled by Section 3, First (I) of the Railway Labor Act, which precludes consideration of claims that are not "handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes", to dismiss such claims. When, as here, the appeal process has clearly not been followed in the usual manner on the property, the Board has no recourse, but to dismiss the

Public Law Board No. 6478
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dispute without reaching the merits. The Carrier's position on property with regards to this issue is deemed proper. The claim must be dismissed.

AWARD:

The claim is dismissed.

Marty E. Zusman
Marty E. Zusman, Chairman
Neutral Member

C. A. Iannone
C. A. Iannone
Organization Member

William H. Robinson, Jr.
Wm. H. Robinson, Jr.
Carrier Member

Date: 8/12/04

D09556

united transportation union

A.L. Suozzo
General Chairperson

GENERAL COMMITTEE OF ADJUSTMENT GO-769

**CERTIFIED MAIL
RETURNED RECEIPT REQUESTED
& REGULAR MAIL
7004 1350 0005 2727 1918**

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
MASSACHUSETTS BAY COMMUTER RAILROAD (MBCR)
HERZOG TRANSIT SERVICES, INC.
CONRAIL SAA

R. M. Lenfest, Jr.
Vice Chairperson

G. R. Galvin
Secretary

July 18, 2005

Mr. John E. Campbell
2210 109th Ave.
Oakland, CA 94603

Dear Sir and Brother:

This is to advise you that the following claim in connection with which you are the Claimant, will be heard by Public Law Board No. 6478, on Monday, August 8, 2005, at 9:00 AM in the Carrier's office, Labor Relations Conference Room, 30th Street Station, 2nd Floor South Tower, Philadelphia, PA.

System Docket No. OC-UTU-SD- SD-1678D- Request the discipline of dismissal imposed upon J. Campbell be expunged from his record and that he be restored to service with seniority and vacation rights unimpaired and compensated for all time and expenses incurred inclusive of Health and Welfare premiums, Reduced Train Crew Allowance and Productivity Savings Sharing Allowance and credit for Railroad Retirement payments for each month for all time lost in connection therewith;

"Charge 1: Your alleged violation of Amtrak's Service Standards for Train Service Employees - Manual No. 2, (effective 5/3/2004-Chapter 3B - Safety Rules for Train Service Employees - Rule 5800 - Coupling or Uncoupling Engine or Cars, which reads:

'Prior to going on, under or between standing equipment for the purpose of coupling or uncoupling engines or cars, crewmembers must:

- Discuss safety matters and work to be performed.
- Communicate before action is taken.
- Protect against moving equipment.
- Secure equipment before action is taken.
- Mentor less experienced employees to perform service safely.

EXHIBIT		30
BY	DEPT.	for identification
WITNESS:	J. Camp Dec 1	
DATE:	2-26-01	
SHARON TRUJILLO, CSR 6120		

000109

1515 MARKET STREET, SUITE 708, PHILADELPHIA, PENNSYLVANIA 19102
Phone: 215-524-1782 Fax: 215-525-2153 M-F 9-5

Mr. John E. Campbell
July 18, 2005
Page 2

Charge 2: Your alleged violation of **General Code of Operating Rules-Fourth Edition - April 2, 2000-Rule 7.1 - Switching Safely and Efficiently**, which reads in part . . . 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'

Charge 3: Your alleged violation of **General Code of Operating Rules - Fourth Edition - April 2, 2000--Rule 1.47 - Duties of Trainmen and Enginemen, Item D Other Crew Members' Responsibilities, Part 1.** 'To ensure the train is operated safely and rules are observed, other crew members must assume as much responsibility as possible to prevent accidents or rule violations."

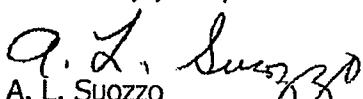
Charge 4: Your alleged violation of **General Code of Operating Rules-Fourth Edition - April 2, 2000--Rule 7.4- Precautions for Coupling or Moving Cars or Engines**, which reads in part . . . 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.'

Charge 5: your alleged violation of **Amtrak Air Brake and Train Handling Rules And Instructions, AMT-3-Revised and Reissued August 19, 2002-Rule 2.14.16:** which reads: 'Multiple lite locomotives may be moved within the confines of a yard or terminal without connecting the M.U. hoses, as long as the brake pipe and main reservoir hoses are connected with associated angle and main reservoir cocks open.

Specification: It is alleged that on July 24, 2004 while assigned to position CYO103 working as the Conductor in the Oakland Diesel Shop you cut out the brakes on a locomotive and failed to properly secure it prior to coupling."

If you desire to attend, you may do so, without expense to the United Transportation Union. Please advise this office if your intention is to attend the hearing.

Fraternally yours,


A. L. Suozzo
General Chairperson

ALS/rmb

G: Amtrak Discipline 2004/am Campbell

50131788

POSTING NO.

AMTRAK JOB REQUISITION AND QUALIFICATION PROFILE

DATE:

DEPARTMENT: CUSTOMER SERVICEREPORTS TO: M. COLLINSJOB TITLE: LOCOMOTIVE ENGINEER (12)CONTACT: C. T. MillerTRAIUERPHONE #: ATS: 767-4993JOB CODE: GRADE:DATE REQUIRED: 11/1/01 MINIMUM SALARY: BLE Agmt.RES CEN: 7270 FIS LOC: 6184FUNC: 1642 MSA LOC: SJC01NON-AGREEMENT:PARTIALLY EXCEPTED:AGREEMENT: XFULLY EXCEPTED:NEW POSITION: YESDEPARTMENT UNDERUTILIZED:REPLACEMENT FOR: RETIREES & TRANSFERSFEMALE: MINORITY: NONE:RELOCATION BENEFITS APPLY: NOOUTSIDE CANDIDATES CONSIDERED: NOPOSITION SUBJECT TO REASSIGNMENT: NO**SUMMARY OF DUTIES:**

Locomotive engineers are responsible for the safe operation of diesel electric locomotive, complying with train orders, bulletin orders, wayside signals, railroad regulations, railroad operating rules, special instructions and federal, state, and local regulations to transport passengers and equipment safely and efficiently. Locomotive engineers perform required tests and make inspections of equipment and air brakes, as required. The position involves working alone and apart in physical isolation while integrating activities with others. Locomotive engineers must have the ability to multitask and retain large amounts of material to memory and must make timely and critical decisions under stressful situations to safeguard lives and property.

EDUCATION:MUST HAVE: High school diploma or equivalent.PREFERRED: ..**WORK EXPERIENCE:**

(include specific areas, length time, type of work, etc.)

MUST HAVE: Valid drivers license and meet FRA regulation requirements for drivers license check.PREFERRED: GCOR qualifications. Must have satisfactory prior work record. Preference may be given to locally qualified candidates.**COMMUNICATION AND INTERPERSONAL SKILLS:**

Strong written and verbal communication skills are needed. Must be able to read and write English.

OTHER REQUIREMENTS:

Must be able to accept work assigned, willing to work and travel away from home. Work rotating shifts and holidays, weekends and irregular hours. Must be able to report to work within two hours from time of call.

SUPERVISORY RESPONSIBILITIES: (number of people, scope, etc.)

NONE

TRAVEL: Yes **PERCENTAGE:** 100%**COMMENTS:**

REPLACEMENTS FOR RETIREES AND TRANSFERS - 100% COMMUTER

(print name below)

DEPARTMENTAL APPROVAL: David Nogar**SIGNATURE:****DATED:**

7/23/01

PERSONNEL APPROVAL:**SIGNATURE:****PERSONNEL OFFICE USE ONLY:****CONTROL NUMBER:****DATE FILLED:** _____ **PERSON HIRED:** _____ **SOURCE OF HIRE:** _____**DATE OFFER LETTER SENT:** _____ **DATE ACCEPTANCE RECEIVED:** _____ **REPORTING DATE:** _____**PERSONNEL****REPRESENTATIVE:** Paul H. **TOTAL DAYS REQUIRED TO FILL POSITION:** _____**COMMENTS:**

IRPC 2002

adapted by rls/engineering/lax = 1/99

Date filled out:

typist:

EXHIBIT	PLT DEPT.	31	for identification
WITNESS:	T. Campbell		
DATE:	2-26-07		
SHARON TRUJILLO, CSR 6120			

Post for 2 weeks

D01794

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,

Plaintiff,

vs.

No. C-05-05434 MJJ

NATIONAL RAILROAD PASSENGER
CORPORATION, et al.,

COPY

Defendants.

DEPOSITION OF SUSAN VENTURELLI

March 23, 2007

PATRICIA CALLAHAN & ASSOCIATES, INC.
Certified Shorthand Reporters
Oakland, California 510-835-3993
San Francisco, California 415-788-3993
Castro Valley, California 510-885-2371

Facsimile 510-247-9775
WeReport@aol.com

Reported by:
DEBORAH A. PIERSON
CSR NO. 7988

PATRICIA CALLAHAN & ASSOCIATES

1 Mr. Pruesser?

2 MS. MAYLIN: Vague and ambiguous. I
3 assume you are talking about Mr. Campbell.

4 MS. PRICE: Yes, about Mr. Campbell. We
5 don't have to assume.

6 Q. The question is, do you recall what you asked
7 Mr. Pruesser about Mr. Campbell?

8 A. I asked Mr. Preusser to provide information on the
9 background checks for a number of candidates, all the
10 candidates that he would have been directly supervising
11 or indirectly supervising. Specifically, I asked about
12 attendance, safety, operating rules, discipline.

13 Q. Do you have a memory of what Mr. Pruesser said to
14 you on those subjects, as it related to John Campbell?

15 A. Not specifically.

16 Q. Do you have any kind of general recollection of
17 what Mr. Pruesser told you?

18 A. That he had rule violations on his record.

19 Q. Did he tell you what type of rule violations?

20 A. A rule violation would be considered a serious
21 rule violation, operating --

22 Q. Yes. My question is what type.

23 A. Oh, no, no.

24 Q. They have all kinds of rule violations.

25 A. I apologize. My familiarity with all the rules is

1 not such that I'd be an expert in understanding exactly
2 what rule it was.

3 MS. MAYLIN: She's just asking what you
4 you can recall. Can you recall?

5 THE WITNESS: No. I don't, other than what
6 I have told you.

7 MS. PRICE: Q. So you don't remember if
8 Mr. Preusser told you what type of rule violations or
9 what particular rule violation?

10 A. No. I don't remember that.

11 Q. Did you ask him to fill out the background check
12 form for Mr. Campbell?

13 A. I remember having sent out the background check
14 forms. I don't remember whether I got that specific
15 form back or not.

16 When we began the recruitment process, the first
17 step was testing, which was actually a personality
18 index, because I hadn't gotten the background checks
19 back, and the time to recruit was limited.

20 I went ahead and invited all the applicants to
21 take the test. I still hadn't gotten the background
22 checks back by the time I needed to schedule
23 interviews. So again, I invited all the candidates who
24 were recommended based on the personality survey to
25 come for the interview.

1 I believe I received the background checks after
2 that, or information, at least, after that.

3 Q. Do you believe you received the information in
4 writing after the interviews?

5 A. Yes.

6 Q. Do you believe you had your conversation with
7 Mr. Pruesser about the candidates after the interviews?

8 A. Yes.

9 Q. In the interviews, do you recall that there were
10 persons other than yourself who participated in the
11 interviews?

12 A. Yes.

13 Q. Who else participated in the interviews?

14 A. Managers from San Jose, managers, I believe, from
15 Sacramento, and managers from Oakland representing each
16 crew base for where the vacancy was posted.

17 Q. Do you recall who those persons were?

18 A. I don't have a visual memory of who was actually
19 there. Again, to the best of my knowledge,
20 Billy Rogers from San Jose was there. A union rep was
21 there; I believe it was Chad Skinner, and I'm not sure
22 who the management representatives from Oakland and
23 Sacramento were.

24 Q. How was it determined who would be on the
25 interview panel?

EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3
4
5 JOHN EARL CAMPBELL,
6 Plaintiff,
7 vs. No. C05-05434 MJJ
8 NATIONAL RAILROAD PASSENGER
9 CORPORATION dba AMTRAK, JOE
DEELY and DOES 1 through 15,
inclusive,
10 Defendants.
11 _____/
12
13
14
15 DEPOSITION OF JOE DEELY
16 February 15, 2007
17
18
19
20 PATRICIA CALLAHAN & ASSOCIATES, INC.
Certified Shorthand Reporters
21 Oakland, California 510-835-3993
San Francisco, California 415-788-3993
Castro Valley, California 510-885-2371
22
23 Facsimile 510-247-9775
WeReport@aol.com
24 Reported by:
LaRelle M. Fagundes
25 CSR No. 9762

1 A. No.

2 Q. Okay.

3 Are there any changes you wish to make to
4 your testimony from this morning?

5 A. No.

6 Q. Okay.

7 Do you receive any reports on any regular
8 basis, whether annually, quarterly, monthly, of
9 identifying the people hired in the Pacific
10 division?

11 A. No.

12 Q. All right. Same question with respect to
13 promotions within the Pacific division.

14 A. Not a specific report, no.

15 Q. Okay. All right.

16 Is it your testimony that you did not --
17 you don't recall any involvement that you had in
18 Mr. Campbell's termination?

19 MR. OBORNE: Objection. Vague and
20 ambiguous.

21 THE WITNESS: I don't recall any
22 involvement.

23 MS. PRICE: Q. Do you recall any
24 involvement in Mr. -- in the decision not to
25 promote Mr. Campbell in either 2003 or 2004?

PATRICIA CALLAHAN & ASSOCIATES